

**REGULATION  
CONCERNING  
THE USE BY  
OTHERS OF  
WMATA PROPERTY  
AND  
RELATED BOARD RESOLUTIONS**

**SEPTEMBER 2007**

# USE REGULATION

## **TABLE OF CONTENTS**

	Page
PREAMBLE .....	1
SUBPART A - GENERAL .....	2
Section 100.1    Applicability .....	2
SUBPART B - PERMIT AND CONTRACT PROCEDURE .....	4
Section 100.2    Permits .....	4
Section 100.3    Contracts .....	5
Section 100.4    Indemnification and Insurance .....	5
Section 100.5    Standards of Conduct .....	6
Section 100.6    Violation of Regulation .....	6
SUBPART C - DEFINITIONS .....	6
Section 100.7    Definitions .....	6
SUBPART D - ALLOWABLE ACTIVITIES .....	9
Section 100.8    Filming and Photography .....	9
Section 100.9    Advertising on Metrobus and Metrorail Systems and WMATA's Website .....	12
Section 100.10   Free Speech Activities .....	13
Section 100.11   Vending of Newspapers .....	14
Section 100.12   Interim Use of Excess Property .....	15
Section 100.13   Interim Use of Future Operational Property .....	16
Section 100.14   Automated Teller Machines .....	17
Section 100.15   Computerized Electronic Passenger Information and Advertising Displays .....	17
Section 100.16   Communications Equipment .....	18
Section 100.17   Public Telephone Service .....	19

Section 100.18	Incidental, Non-Transit, Public Use of WMATA-Owned Parking Facilities . . . . .	19
Section 100.19	Civic Use of WMATA-Owned Parking Facilities . . . . .	20
Section 100.20	Commercial Use of WMATA-Owned Facilities . . . . .	21
Section 100.21	Implementation of this Use Regulation . . . . .	21

## APPENDIX A

LIST OF BOARD APPROVED ADVERTISING INVENTORY . . . . .	22
--	----

**PART 100**  
**REGULATION CONCERNING THE**  
**USE BY OTHERS OF WMATA PROPERTY**

**PREAMBLE**

On March 27, 1980, the WMATA Board of Directors (the "Board") adopted Board Resolution No. 80-19, which detailed the limited use by others of property owned or controlled by WMATA. The Board recognized that WMATA property had been purchased with public funds, that there was a significant demand for the use of the property, and that the Board had a responsibility for the safety of the riding public. The approved activities included certain commercial, transit-related, real property and first amendment uses such as expressions of political thought and religious belief.

Since the adoption of Board Resolution No. 80-19, WMATA has been receiving an increasing number of requests from commercial establishments and other interest groups seeking access to WMATA facilities. This proposed Use Regulation has been developed to ensure that WMATA property is used safely, and in furtherance of its dedicated purpose. The Use Regulation will have the effect of binding WMATA to its provisions unless it is later amended at a public session of the Board. The intent of the Use Regulation is to make it clear that upon its adoption by the Board, all WMATA operating and non-operating property shall be preserved for the use to which it was lawfully dedicated, and that the use and activities by the public of WMATA property shall be consistent with that status. The Use Regulation will not permit any discretion on the part of the staff or the Board with respect to the particular activities allowed.

Because advertising is a source of significant revenue to WMATA, advertising will be allowed in/on Board-approved inventory of buses, bus shelters, railcars and Metrorail stations, including tunnels. Bus shelter advertising will be conditional on obtaining the necessary authorizations from the surrounding jurisdictions. Advertising will also be allowed on the WMATA's website, but such advertising will be restricted to noncontroversial commercial advertising that is not contrary to the best interests of the transit system, and that does not place WMATA in a negative light or otherwise result in public criticism of WMATA. In addition to advertising, other revenue producing activities that will be allowed are: filming and photography; automated teller machines; electronic graphics; fiber optics; leasing of excess and future operational property; paid public telephone service; newspaper vending machines; incidental, non-transit public use of WMATA-owned parking facilities; civic use of WMATA-owned parking facilities; and commercial use of WMATA-owned facilities.

This Use Regulation excludes from its scope the following uses of WMATA property: transit-related uses, joint development, and utility activities.

Uses of WMATA property not described in this Use Regulation or specifically excluded from its scope are prohibited.

Modifications to this Use Regulation must be made by an affirmative vote of the Board at a public session.

## **SUBPART A - GENERAL**

### **Section 100.1      Applicability**

The Use Regulation describes the types of activities that may be conducted on WMATA property by non-WMATA personnel or by the public. This Use Regulation also establishes criteria under which a permit or contract may be obtained that will enable the requestor to use the property for one of the allowed purposes. This Use Regulation is necessary to preserve the facilities of WMATA for their dedicated purpose, to provide for the safe and efficient operation of the system and to further the equitable distribution of licenses and contracts to the public for allowable activities.

No person shall be allowed to use WMATA property except:

- (a) WMATA employees, officers, and directors acting within their official capacity. When not acting within their official capacity: employees, officers, and directors of the WMATA shall be treated as "others."
- (b) Officials, employees and agents of the signatories to the WMATA Compact (Maryland, Virginia, and the District of Columbia); of the Washington Metropolitan Area Transit Zone; of the District of Columbia; of the cities of Alexandria, Falls Church and Fairfax and the counties of Arlington and Fairfax and political subdivisions of the Commonwealth of Virginia located within those counties; of the counties of Montgomery and Prince George's in the State of Maryland and the political subdivisions of the State of Maryland located in those counties; and of the U.S. Government while acting on official business as it relates to WMATA facilities.

- (c) Contractors, agents, subcontractors and suppliers under contract with WMATA and only with respect to designated physical areas covered by the contract.
- (d) Passengers on the WMATA rail and bus system and other transit-related users.
- (e) Individuals or corporations who by the issuance of a permit or contract pursuant to this Use Regulation are granted limited use access to WMATA property for the purpose of engaging in allowable activities will only be authorized when the safety of WMATA employees and transit patrons can be assured, ingress and egress of patrons accommodated and normal transportation services operated without disruption. Permits and/or contracts for limited use shall be granted for the following purposes:
  - (1) Filming/Photography
  - (2) Advertising on Metrobus and Metrorail Systems
  - (3) Free Speech Activities
  - (4) Vending of Newspapers
  - (5) Interim Use of Excess Property
  - (6) Interim Use of Future Operational Property
  - (7) Automated Teller Machines
  - (8) Computerized Electronic Passenger Information and Advertising Displays
  - (9) Communications Equipment
  - (10) Public Telephone Service
  - (11) Incidental, Non-Transit Public Use of WMATA-Owned Parking Facilities
  - (12) Civic Use of WMATA-Owned Parking Facilities

### (13) Commercial Use of WMATA-Owned Facilities

This Use Regulation excludes from its scope of the following uses of WMATA property: transit-related uses, joint development, and utility activities.

WMATA expressly reserves the right to cancel for a reasonable period of time any permit activity for operational or safety reasons.

## **SUBPART B - PERMIT AND CONTRACT PROCEDURE**

### **Section 100.2 Permits**

- (a) Issuance. Subject to the availability of space, a permit shall be issued giving the applicant the privilege to conduct a specific allowable activity on WMATA's property. Permits shall be issued at 600 5<sup>th</sup> Street, N.W., during normal business hours of the Office of General Counsel or by mail on a "first-come first-served" basis and shall be limited in duration in accordance with the demand schedule for the selected property. Permits are not transferable. Should WMATA determine that the number of applications for permits exceeds the space available at any location, WMATA shall allocate the remaining available space by a random lottery.
- (b) Contents. The permit shall contain the following terms and conditions: the name of the individual or group; the number of individuals in the group; the activity time and duration of activity; and location of the allowed activity. The permit will also provide that the permittee will be responsible for depositing any trash resulting from free speech activities in appropriate trash containers.
- (c) Extensions. The specified duration of the permit will not be extended. The permit holder may file an application for a new permit at any time, which shall be issued on a space available, "first-come first-served basis." In such a case, the applicant may incorporate by reference any required documentation filed with a previous permit application.
- (d) Denial of Permit. An application for a permit for an allowable activity will only be denied if a person designated by WMATA signifies that the requested space is unavailable, the proposed activity would cause a safety problem, or the



planned activity is prohibited. Such denial will be made promptly. Revocation of a prior permit is a basis for the denial of a subsequent application for a reasonable period of time, not to exceed three (3) months.

- (e) Revocation. A permit may be revoked if the permit holder violates the terms and conditions of the permit.

### **Section 100.3      Contracts**

- (a) Issuance. Where a contract is required as specified below, the applicant shall enter into a contract with WMATA concerning the allowed activity.
- (b) Contents. The contract shall contain the name of the individual or group, the activity, time and duration of activity, the location of the allowed activity, and indemnification and insurance provisions.
- (c) Compliance. Contracts shall be entered into between WMATA and the applicant in accordance with WMATA's procurement regulations.

### **Section 100.4      Indemnification and Insurance**

- (a) Indemnification. Each applicant who requests to undertake an approved activity on WMATA property shall agree to fully indemnify and save harmless WMATA against any and all liability arising out of its activities. The requirement for indemnification shall not be applicable to those individuals exercising First Amendment activities.
- (b) Insurance. Prior to commencing activities on WMATA property, each applicant who requests to undertake an approved activity on WMATA property shall provide an acceptable policy of insurance coverage appropriate to the activity in accordance with the established insurance schedule. The requirement for insurance shall not be applicable to those individuals exercising First Amendment activities.

## **Section 100.5      Standards of Conduct**

- (a) Time and Number of Individuals. The allowed activity shall be conducted within the time period stated in the permit or contract, and with a maximum number of individuals as stated in the permit or contract.
- (b) Interference with Transit Riders, the Public, and Other Activities. Even when an activity has been approved, the performance of that activity shall not interfere with the safety of transit riders or the public, the efficient operation of the transit system, or other activities being conducted on WMATA property.

## **Section 100.6      Violation of Regulation**

- (a) Unauthorized Activity. If WMATA determines that any organization or individual is conducting an unauthorized activity on WMATA property, WMATA shall so notify the violator and the activity shall be stopped or the violators shall immediately leave the WMATA property. Failure to stop the unauthorized activity or to leave the WMATA property when so requested shall constitute a trespass and the violators shall be arrested and subject to fine or imprisonment in accordance with local criminal laws and ordinances.
- (b) Unauthorized Performance of an Authorized Activity. If WMATA determines that any organization or individual is conducting an authorized activity in an unauthorized manner in violation of this regulation, the permit, or the contract, 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 the WMATA property. Failure to stop the unauthorized performance of the authorized activity when so requested shall constitute a trespass and the violators shall be arrested and subject to fine or imprisonment in accordance with local criminal laws and ordinances.

## **SUBPART C - DEFINITIONS**

## **Section 100.7      Definitions**

- (a) "Advertising" means a printed or electronic media display for the purpose of conveying a message.

- (b) "Automated Teller Machine" (ATM) means electronic banking equipment that permits patron access to routine banking functions. ATMs located on WMATA property will be allowed to display the name, slogan and/or logo of the originating bank/entity.
- (c) "Civic Use of WMATA-Owned Parking Facilities" means use of WMATA-owned parking facilities by municipal, county or state agencies/organizations of the Compact jurisdictions or organizations sponsored or created by municipal, county or state agencies/organizations of the Compact jurisdictions for non-commercial activities that support/serve WMATA Compact jurisdiction communities.
- (d) "Commercial Activity" means any enterprise or venture by groups or individuals for the purpose of promoting or selling products or services, except food, drink and tobacco to transit patrons or the public.
- (e) "Commercial Use of WMATA-Owned Facilities" means the use of WMATA's parking facilities/structures, Metrorail stations, Metrobus garages, rail yards and office buildings for commercial ventures, such as, office space, and retail ventures (sale of products or services, except food, drink and tobacco, deemed to reduce the travel time of transit users by providing easy access to frequently used/needed products or services). Each commercial use requires Board approval.
- (f) "Community Purpose" means any use of WMATA property that provides a benefit to the surrounding neighborhood or jurisdiction and/or WMATA customers.
- (g) "Computerized Electronic Passenger Information and Advertising Displays" include, but are not limited to, light emitting diode (LED) displays, video monitors, computer monitors and plasma screens.
- (h) "Director" means a member or alternate member of the WMATA Board of Directors.
- (i) "Employee" means 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 or her services by wages, salary or other remuneration.

- (j) "Excess Property" means any real property designated excess by the General Manager following a screening process verifying that there are no construction, operation, maintenance, or transit-related requirements for the property.
- (k) "Executive Order" means a description of an internal administration procedure that implements WMATA policy or that defines standard operating procedures.
- (l) "Free Speech Activity" means the organized exercise of rights and privileges that deal with political, religious, or social matters and are non-commercial.
- (m) "Incidental Non-Transit, Public Use of WMATA-Owned Parking Facilities" means the use of WMATA parking facilities by non-transit or non-transit-related users for parking only.
- (n) "Joint Development Use" or "Joint Development" is defined as the development of WMATA-owned or controlled real property interests at or near mass transit facilities that have significant development potential -- including, but not limited to, incidental non-transit, public use of parking spaces and/or commercial or retail use in parking facilities -- to achieve close physical integration of transit facilities with commercial/retail, recreational/entertainment, and residential development with the objective of developing transit-oriented development projects that encourage reduced automobile dependency, promote and enhance ridership and patron convenience by providing the opportunity to obtain goods and services near transit stations, and encourage revitalization and growth in communities that WMATA serves.
- (o) "Leaflet" means small printed material unfolded or folded.
- (p) "Newspaper" means 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.
- (q) "Not-For-Profit" means any activity by a religious, educational, scientific, philanthropic, agricultural, labor, veteran's or fraternal organization or

association that is not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual.

- (r) "Public Service" means the objects and enterprises that specifically serve the needs of the general public or are conducive to the comfort and convenience of the entire community.
- (s) "Space Available" means that sufficient square footage is available so that the activity will not adversely affect the safety or security afforded the general public nor will the activity interfere in the normal operation of the public transportation system.
- (t) "Transit-Related Use" means use of Metrorail transportation facilities by (1) Metrobus; (2) transit services operated by or for WMATA Compact member jurisdictions; (3) transit services operated by or for other public agencies; and (4) private providers of transit services to the general public; and activities related to the promotion of the above transit services on WMATA facilities.

## **SUBPART D - ALLOWABLE ACTIVITIES**

### **Section 100.8      Filming and Photography**

- (a) Activities. This section applies to the following activities:
  - (1) The filming of motion pictures, television commercials, and promotional and educational films. Television and newspaper press crews of five (5) or fewer individuals and without any "plug-in" equipment are not subject to this Use Regulation.
    - (i) Fees.
      - (A) The fees and charges assessed "commercial activity" filming will provide for a one-time set-up and ongoing administrative and operational hourly costs plus a 35 (thirty-five) percent margin of overhead.

- (B) The fees and charges for “not-for-profit” filming will be sufficient to cover all one-time and ongoing administrative and operational costs.
    - (C) A schedule shall provide hourly charges for the use of stations, and necessary administrative, security and operational personnel, and required equipment.
    - (D) The entire estimated fee to be charged for “commercial activity” and “not-for-profit” filming must be paid prior to the scheduled start of filming. Any charge over the estimate will be payable within thirty (30) days of billing.
  - (ii) Time of Activity. Request for filming will be assessed on an individual 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.
  - (iii) Permit. Requests for a permit will be accompanied by scripts and story boards at least ten (10) working days prior to the requested filming date. Requests will not be authorized that would suggest to viewers activities that would be in violation of the laws of the signatories; the laws, ordinances, and regulations of the political subdivisions in the transit zone; or the rules and regulations of WMATA.
- (2) Still photography that does not require a tripod, special lighting, film crews, models, impair the normal ingress/egress or operation of WMATA services and can be accomplished by a hand- held camera by one person is not regulated. Requests for photographic access that involve a camera crew of three (3) or less, two (2) pieces of lighting equipment or less, does not involve the use of a tripod, does not require assistance of WMATA technical personnel or significantly impair the normal ingress/egress or operations will be allowed. Requests for a permit must be made two (2) working days prior to the requested date of photography. Photography and filming that requires the use of models, special lighting equipment beyond two (2) pieces, tripods, assistance and supervision from WMATA staff, crews of more than three (3), or that

impairs ingress/egress or normal system operations shall be governed by Section 100.8(a)(i). Television and newspaper press crews of five (5) or fewer individuals and without any "plug-in" equipment are not subject to this Use Regulation.

- (i) Fees. The fee charged for each hour of use of WMATA's property shall be in accordance with a schedule established by WMATA. The fee must be paid in advance by cash, certified check or money order. A fee shall not be charged for photography by an individual with a hand-held camera for an individual's own use.
- (ii) Time of Activity. Requests for photography will be assessed on an individual 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.

(b) Permits and Contracts.

- (1) Each person who requests and is granted authorization to undertake "commercial" or "not-for-profit" filming or photography activity on WMATA property shall enter into a contractual agreement with WMATA in accordance with Section 100.3, Contracts.
- (2) Each person except as stated in Section 100.8(a)(2) who requests and is granted authorization to undertake still photography or hand-held camera filming shall be issued a permit issued by WMATA in accordance with Section 100.2, Permits.

(c) Indemnification and Insurance.

- (1) Each person who requests to undertake "commercial" or "not-for-profit" filming on WMATA property shall provide a policy of liability insurance and shall agree to indemnify WMATA for any and all liability arising out of that person's activities pursuant to Section 100.4, Indemnification and Insurance.

- (2) Each person who requests to undertake still photography or hand-held camera filming on WMATA property shall not be required to provide a policy of insurance or indemnification.

**Section 100.9                      Advertising on Metrobus and Metrorail Systems and WMATA's Website**

- (a) Activities. This section applies to the following activities:

- (1) Advertising on WMATA's Metrobus and Metrorail systems installed in Board-approved advertising inventory of buses, bus shelters, railcars, and Metrorail stations, including tunnels, and on WMATA's website. See Appendix A (List of Board-approved advertising inventory).

- (b) Type of Advertising.

- (1) All advertising on WMATA's property shall comply with the applicable advertising guidelines that govern the advertising inventory.
- (2) All advertising shall be truthful and in compliance with the laws of the signatories; the laws, ordinances, and regulations of the political subdivisions in the transit zone; and the rules and regulations of WMATA.
- (3) Advertising which is false or misleading is prohibited.
- (4) The use of WMATA's graphics or representations in advertising is subject to WMATA's approval.
- (5) WMATA reserves the right to reject or remove any advertising that is in violation of the laws of the signatories; the laws, ordinances and regulations of the political subdivisions in the transit zone; or the terms and conditions of the contractual agreement.

- (c) Website Advertising. Advertising on the WMATA's website shall be restricted to non-controversial commercial advertising that is not contrary to the best



interests of the transit system and that does not place WMATA in a negative light or otherwise result in public criticism of WMATA. Pop ups and other similar features are prohibited. Such website advertising shall also comply with subsection (b) of this section, including the Guidelines Governing Commercial Advertising.

- (d) Contract. An advertising franchise shall be established in accordance with WMATA's procurement regulations. The franchisee shall enter into a contract with WMATA in accordance with Section 100.3, Contracts.
- (e) Indemnification and Insurance. Each person who requests to undertake "commercial" and "not-for-profit" advertising on WMATA property in accordance with Section 100.7 shall indemnify WMATA for any and all liability arising out of that person's activities pursuant to Section 100.4, Indemnification and Insurance.

#### **Section 100.10 Free Speech Activities**

- (a) Activities. This section applies to free speech activities as defined in Section 100.7.
- (b) Location. Free speech activities are permitted in the free-area -- "above ground" of Metro stations. All free speech activities are to take place at a distance greater than fifteen (15) feet from any escalator, stairwell, faregate, mezzanine gate, kiosk, or fare card machine. In no instances are any free speech activities to take place in the paid or platform areas of the station, or in the underground portions of stations. No free speech activities may interfere with the pedestrian traffic flow in the usual egress and ingress to the station proper or to the faregate.
- (c) Leafleting. The distribution of leaflets in connection with free speech activities is permitted.
- (d) Prohibitions. No individual carrying out free speech activities will carry out any commercial activity. Those carrying out free speech activities will not:
  - (1) Distribute food or drink or tobacco.

- (2) Post any commercial signs, advertisements, circulars, or printed material.
- (3) Set up any tables or other portable equipment. This prohibition does not apply to official use by local jurisdictions at those stations where WMATA has determined that space is available.
- (4) Carry any signs or placards that are more than 18" x 18" or are affixed to a pole.
- (5) Affix any material to any part of the WMATA structure.
- (6) Permit leaflets or other printed material to be left unattended.

#### **Section 100.11 Vending of Newspapers**

- (a) Activities. This section applies to the sale and distribution of newspapers from vending machines at Metrobus terminals and Metrorail stations. Because of safety and fire considerations, human vendors and the chaining of any newspaper vending machines to WMATA property is prohibited.
  - (1) Newspaper vending machines (vendors) may be located where designated by WMATA. At underground Metrorail stations, vendors shall be placed on the underground mezzanine level, i.e., in the free area between the bottom of the first entrance escalator and the fare paying area. At certain underground and surface stations, vendors may be placed at ground level mezzanine or surface exterior locations designated by WMATA pursuant to subparagraph (3) below. Newspaper vending activities are prohibited on the subway platform area of the stations and on the trains. At designated Metrobus terminals, exterior newspaper vendors may be located where determined by WMATA.
  - (2) All newspaper vendors whether located in the interior or on the exterior of station property or on the exterior of Metrobus terminals shall be designed in accordance with plans and specifications adopted by WMATA. WMATA shall adopt a uniform design for all interior vendors

and a second uniform design for exterior vendors. The design will be in conformance with applicable Use Regulations, and in furtherance of the aesthetic integrity of the property. The total cost of the construction and installation of the machines shall be borne by the vendor owners.

- (3) WMATA will conduct a station-by-station survey to determine the amount of space available that may be used for newspaper vending machines. Safety and ingress/egress of passengers will be the principal considerations in evaluating space limitations.
- (b) Contract. A Newspaper Vending Agreement shall be executed with WMATA and shall grant to the vendor the non-exclusive right to place newspaper vending machines in designated Metrobus terminals and Metrorail stations for a one (1) year period of time. The number of vendors at each location shall be determined by the availability of space. Selection of vendors shall be made by a station-by-station lottery after the available space is determined by survey. Any one newspaper may receive a maximum of three (3) vending machine spaces per station through the lottery. Should any space remain available following the lottery, a newspaper may apply for that space and shall not be restricted to a maximum of three (3) machines at that location. Contractual agreements will be granted pursuant to Section 100.3, Contracts.
- (c) Indemnification and Insurance. The newspaper vendor shall, as part of the contractual agreement, agree to fully indemnify WMATA for any and all liability arising out of the operation of the newspaper vendors and provide a policy of liability insurance pursuant to Section 100.4, Indemnification and Insurance.

## **Section 100.12 Interim Use of Excess Property**

- (a) Activities. This section applies to the use of excess property where final disposition is pending and where the property is not part of the planned operating system. Activities shall be allowed that foster:
  - (1) maintenance of properties in a neat and orderly condition;
  - (2) non-profit individual and community purposes;

- (3) reduction or avoidance of maintenance costs by WMATA;
  - (4) revenues offsetting any administrative costs; and
  - (5) production of revenues through out-leasing.
- (b) Permits and Contracts. Each person who requests and is granted authorization to undertake an approved activity on WMATA's excess property shall be accommodated by a contract pursuant to Section 100.3, Contracts, and shall be issued a permit pursuant to Section 100.2, Permits.
- (c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake an approved activity on WMATA's excess property shall agree to indemnify WMATA for any and all liability arising out of their activities and provide a policy of insurance pursuant to Section 100.4, Indemnification and Insurance.

#### **Section 100.13 Interim Use of Future Operational Property**

- (a) Activities. This section applies to the interim use of property owned or controlled by WMATA which is temporarily not required but will be needed in the future as part of the operating system. Activities shall be allowed which foster and are consistent with:
- (1) production of revenue in excess of costs for the WMATA; and
  - (2) maintenance of properties in a neat and orderly condition.

The following specific uses among others are specifically authorized:

- (1) holdover use by former owners or tenants; and
- (2) out-leases with former owners, or their tenants in possession, or new leases.

- (b) Permits and Contracts. Each person who requests and is granted authorization to undertake an approved activity on WMATA's property in accordance with this section shall be accommodated by a contract pursuant to Section 100.3, Contracts, and shall be issued a permit.
- (c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake an approved activity on WMATA's property in accordance with this section shall agree to indemnify WMATA for any and all liability arising out of their activities and provide a policy of insurance pursuant to Section 100.4, Indemnification and Insurance.

#### **Section 100.14      Automated Teller Machines**

- (a) Activities. This section applies to the placement of Automated Teller Machines (ATMs) at Metrorail stations.
- (b) Location. The installation of ATMs is only permissible within the free area of the station mezzanine in close proximity to the station manager's kiosk and the farecard sales area. The exact location of the ATM will be determined by WMATA.
- (c) Contract. An ATM license shall be established in accordance with WMATA's procurement regulations. The licensee shall enter into a contract with WMATA in accordance with Section 100.3, Contracts.
- (d) Indemnification and Insurance. Each entity that is granted an ATM license shall indemnify WMATA for any and all liability arising out of its activities pursuant to Section 100.4, Indemnification and Insurance.

#### **Section 100.15      Computerized Electronic Passenger Information and Advertising Displays**

- (a) Activities. This section applies to the implementation of computerized electronic passenger information and advertising displays on platforms and in mezzanines of Metrorail stations as well as in Metrorail cars and Metrobuses.

The principal function of the system(s) will be to display useful, timely, and accurate Metro service updates and/or news updates to rail and bus patrons. A secondary function of the hardware will be to allow commercial advertisements to be displayed in a manner that does not interfere with the principal function of the equipment. The type of advertising allowed is governed by Section 100.9, Advertising on Metrobus and Metrorail Systems.

- (b) Contract. A Computerized Electronic Display Contract shall be entered into between the applicant and WMATA pursuant to WMATA's procurement regulations and in accordance with Section 100.3, Contracts.
- (c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake computerized electronic display advertising shall indemnify WMATA for any and all liability arising out of its activities and provide a policy of liability insurance pursuant to Section 100.4, Indemnification and Insurance.

#### **Section 100.16     Communications Equipment**

- (a) Activities.
  - (1) Fiber optic cables will be installed along WMATA's rights-of-way service corridors. Any fiber optic cable capacity not required by WMATA may be leased for commercial purposes.
  - (2) WMATA may with the approval of the Board, also lease its property for the installation and operation of communications equipment, including without limitation, antennas and cellular cells, for commercial purposes. Such activity will take place in conformance with all applicable standards established by the American National Standards Institute. Landscaping shall be provided where practicable.
- (b) Contract. A contract shall be entered into between the applicant and WMATA pursuant to WMATA's procurement regulations, and in accordance with Section 100.3, Contracts.

- (c) Indemnification and Insurance. Each person who is granted a franchise shall indemnify WMATA for any and all liability pursuant to Section 100.4, Indemnification and Insurance.

#### **Section 100.17     Public Telephone Service**

- (a) Activities. This section applies to the installation of a public telephone service located in the Metrorail and Metrobus systems. The service shall be provided by either WMATA directly or through contract pursuant to WMATA's procurement regulations and in accordance with Section 100.3, Contracts.

#### **Section 100.18     Incidental, Non-Transit, Public Use of WMATA-Owned Parking Facilities**

- (a) Activity. This section applies to incidental non-transit, public use of WMATA-owned parking facilities, as defined in Section 100.7, Definitions, that are normally allocated for use by WMATA rail and bus system patrons and other transit-related users.
- (b) Time. Incidental, non-transit, public use of WMATA-owned parking facilities may take place only during off-peak and/or non-revenue time periods, or as otherwise approved by the Board.
- (c) Availability. Incidental, non-transit, public use of WMATA-owned parking facilities may be available when (i) WMATA deems that the use does not present a safety concern; (ii) there are sufficient remaining parking spaces for transit system patrons and other transit-related users; and (iii) the use is 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.
- (d) Fees. The appropriate compensation for the use of WMATA-owned parking facilities shall be established by the General Manager, or his/her designee, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge amount, if any, established for the particular Metrorail station plus an amount sufficient to cover all administrative, operating and maintenance costs.

## **Section 100.19 Civic Use of WMATA-Owned Parking Facilities**

- (a) Activities. This section applies to civic activities sponsored by municipal, county or state agencies/organizations of the Compact jurisdictions.
- (b) Time. Civic use of WMATA-owned parking facilities shall take place only during off-peak and/or non-revenue time periods.
- (c) Availability. WMATA-owned parking facilities may be available for civic activities only when (i) WMATA deems that the use does not present a safety concern; (ii) the use allows sufficient remaining parking spaces for passengers of the transit system and other transit-related users; (iii) WMATA determines that the planned activity serves/supports the surrounding community; and (iv) the use is consistent with FTA requirements, the 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.
- (d) Permit. Each organization that is allowed to host an activity where/when space is available shall enter into a license, lease, or other appropriate agreement that satisfies the requirement of Section 100.4, Indemnification and Insurance, of this Use Regulation. Such license/lease/agreement shall also establish that WMATA restrooms are not available to attendees at the civic activity; shall require the organization hosting the activity to provide its own restroom facilities, if necessary; and shall require the organization to clean up and remove all trash that results from the activity.
- (e) Fees. The appropriate compensation for the use of WMATA-owned parking facilities shall be established by the General Manager or his/her designee, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge amount, if any, established for the particular Metrorail station plus 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 needed.



## **Section 100.20      Commercial Use of WMATA-Owned Facilities**

- (a) Activity. This section applies to commercial use of WMATA-owned facilities as defined in Section 100.7, Definitions.
- (b) Availability. Commercial use of WMATA-owned facilities may be available when (i) WMATA determines that the use serves a community purpose; (ii) WMATA deems that the use does not present a safety concern and does not interfere with transit operations; (iii) the use is consistent with FTA requirements, the bond 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; and (iv) the use is approved by the Board.
- (c) Permit. Each entity/person that/who is allowed to sell products or services (excluding food, drinks and tobacco) or rent space where/when space is available shall enter into a license, lease, or other appropriate agreement in accordance with WMATA procurement regulations and the requirement of Section 100.4, Indemnification and Insurance, of this Use Regulation concerning indemnification and insurance. Such license/lease/agreement shall also establish that WMATA restrooms are not available to customers of the commercial entity who are not transit customers; shall require the commercial entity to provide its own restroom facilities, if necessary; and shall require the commercial entity to provide clean up and removal of all trash that results from the commercial use.
- (d) Fees. The appropriate compensation for the use of WMATA-owned facilities shall be established by the General Manager, or his/her designee, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels. At a minimum, the amount should be enough to cover administrative, operating and maintenance costs, including the cost of additional electricity due to the commercial use, trash removal and additional clean up costs generated by the commercial use.

## **Section 100.21      Implementation of this Use Regulation**

The General Manager of WMATA is directed to implement this Use Regulation through appropriate executive orders.

## **APPENDIX A**

### **LIST OF BOARD APPROVED ADVERTISING INVENTORY**

#### **A. Buses**

- (1) Queen-size frames
- (2) King-size frames.
- (3) Rear frames
- (4) Exterior head-liners
- (5) Video monitors
- (6) Partial exterior wraps
- (7) Interior bus cards

#### **B. Railcars**

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

#### **C. Metrorail Stations**

- (1) Dioramas (back-lighted advertising 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. Wallscapes**

#### **G. Website Advertising – for Commercial Advertising only in accordance with Section 100.9 ( c) of this Use Regulation.**

# BOARD RESOLUTIONS

## RELATED BOARD RESOLUTIONS

- Board Resolution #2007-25  
Presented & Adopted: June 28, 2007  
Subject: Revisions to the Regulation Concerning the Use by Others of WMATA Property
- Board Resolution #2006-24  
Presented & Adopted: May 18, 2006  
Subject: Revisions to the Use Regulation Concerning the Use by Others of WMATA Property
- Board Resolution #2004-35  
Presented & Adopted: July 15, 2004  
Subject: Revisions to the Use Regulation Concerning the Use by Others of WMATA Property
- Board Resolution #2004-07  
Presented & Adopted: February 19, 2004  
Subject: Revisions to the Regulation Concerning the Use by Others of WMATA Property
- Board Resolution #2002-47  
Presented & Adopted: October 17, 2002  
Subject: Amendment to the Regulation Concerning the Use by Others of WMATA Property and Amendments to Parking Resolutions #86-58 and #88-61
- Board Resolution #95-27  
Presented & Adopted: July 27, 1995  
Subject: Amend. of Use Reg. to Lease Prop. for Comm. Equipment
- Board Resolution #87-02  
Presented & Adopted: January 15, 1987  
Subject: Adoption of Regulations Use of WMATA Property by Others
- Board Resolution #80-19  
Presented & Adopted: March 27, 1980  
Subject: Policy on Use of WMATA Property by Others

**PRESENTED AND ADOPTED: June 28, 2007**

**SUBJECT: Revisions to The Regulation Concerning the Use by Others of WMATA Property**

**2007-25**  
**RESOLUTION**  
**OF THE**  
**BOARD OF DIRECTORS**  
**OF THE**  
**WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

WHEREAS, In 1980, the Board adopted Board Resolution #80-19, in which it declared that it would allow the use of WMATA property by others for a limited number of activities, including some commercial activity, but clearly stated its intent to closely monitor/control commercial use; and

WHEREAS, In 1987, the Board adopted Board Resolution #87-02, adopting the Regulation Concerning the Use By Others of WMATA Property (the Use Regulation), codifying the policy expressed in Board Resolution #80-19, but allowing some additional activities; and

WHEREAS, The Use Regulation prohibits any uses of WMATA property that are not approved therein, and specifically requires Board approval of advertising inventory; and

WHEREAS, Staff wishes to generate revenue by adding new areas to the existing advertising inventory; and

WHEREAS, Staff recommends that the Board adopt revisions to Appendix A of the Use Regulation, attached hereto as Exhibit A, to allow additional advertising inventory in the following areas, subject to Staff obtaining any permits required:

- (1) Metrorail stations: station pylons and pillars, floor graphics, trash receptacles, wall projections and larger backlit dioramas;
- (2) Railcars: exterior railcars king-size displays, interior railcar doors (excluding bulkhead doors), railcar ceilings; and
- (3) Wallscapes; and

WHEREAS, Staff also proposes that WMATA allow commercial advertising on WMATA's Web site; and

WHEREAS, Due to the importance of promoting access by all to WMATA's web site in order to provide quality service, Staff proposes that web site advertising be restricted to noncontroversial commercial advertising that is not contrary to the best interests of the transit system and that does not place WMATA in a negative light or otherwise result in public criticism of WMATA; now, therefore, be it

**Motioned by Mr. Graham, seconded by Mr. Benjamin**

**Ayes: 6 - Ms. Hewlett, Mr. Euille, Mr. Graham, Mr. Benjamin, Mrs. Hudgins, Mr. Moneme**

*RESOLVED*, That the Board of Directors of the Washington Metropolitan Area Transit Authority revises Appendix A of the Use Regulation, attached hereto as Exhibit A, to expand WMATA's advertising inventory to include the following areas, subject to Staff obtaining any required permits:

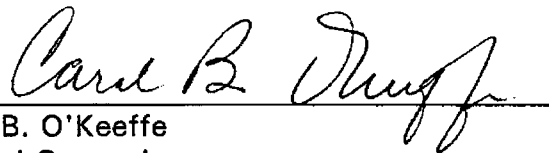
- (1) Metrorail stations: station pylons and pillars, floor graphics, trash receptacles, wall projections and larger backlit dioramas;
- (2) Railcars: exterior railcar king-size displays, interior railcar doors (excluding bulkhead doors), railcar ceilings;
- (3) Wallsapes; and
- (4) WMATA Web site; be it further

*RESOLVED*, That the Board of Directors amend the Preamble and Section 100.9 of the Use Regulation, attached hereto as Exhibit B, to allow WMATA web site advertising, but restrict such advertising to noncontroversial commercial advertising that is not contrary to the best interests of the transit system and that does not place WMATA in a negative light or otherwise result in public criticism of WMATA; be it further

*RESOLVED*, That by allowing commercial advertising on the WMATA web site, the Board of Directors does not intend to designate the web site as a public forum; and be it finally

*RESOLVED*, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency.

  
\_\_\_\_\_  
Carol B. O'Keeffe  
General Counsel

**Appendix A**

**LIST OF BOARD APPROVED ADVERTISING INVENTORY**

**A. Buses**

- (1) Queen-size frames
- (2) King-size frames
- (3) Rear frames
- (4) Exterior Headliners
- (5) Video monitors
- (6) Partial exterior wraps
- (7) Interior bus cards

**B. Railcars**

- (1) Interior car cards (21" x 22")
- (2) Interior Headliners
- (3) Video monitors
- (4) Partial exterior wraps
- (5) Exterior railcar King-size displays (**New Item**)
- (6) Interior railcar doors (excluding bulkhead doors) (**New Item**)
- (7) Railcar Ceilings (**New Item**)

**C. Metrorail Stations**

- (1) Dioramas (back-lighted advertising display)
- (2) Two-Sheet Posters (non-backlighted advertising display)
- (3) Station banners

- (4) Larger dioramas (**New Item**)
- (5) Pylons and Pillars (**New Item**)
- (6) Floor Graphics (**New Item**)
- (7) Trash Receptacles (**New Item**)
- (8) Wall Projections (**New Item**)

**D. Tunnels**

**E. Bus Shelters**

**F. Wallscapes (New Item)**

**G. Web Site Advertising (New Item) -- for Commercial Advertising only in accordance with Section 100.9 (c).**



## EXHIBIT B

### PART 100 REGULATIONS CONCERNING THE USE OF WMATA PROPERTY PREAMBLE

\* \* \*

Because advertising is a source of significant revenue to the Authority, advertising will be allowed in/on Board-approved inventory of buses, bus shelters, railcars and Metrorail stations, including tunnels. Bus shelter advertising will be conditional on obtaining the necessary authorizations from the surrounding jurisdictions. Advertising will also be allowed on the Authority's web site, but such advertising will be restricted to noncontroversial commercial advertising that is not contrary to the best interests of the transit system and that does not place the Authority in a negative light or otherwise result in public criticism of the Authority.

#### **Section 100.9 Advertising on Metrobus and Metrorail Systems and the Authority Web Site**

(a) Activities: This section applies to the following activities.

(1) Advertising on the Authority's Metrobus and Metrorail systems installed in Board approved advertising inventory of buses, bus shelters, railcars, and Metrorail stations and on the Authority's web site.

(c) Web Site Advertising. Advertising on the Authority's web site shall be restricted to noncontroversial commercial advertising that is not contrary to the best interests of the transit system and that does not place the Authority in a negative light or otherwise result in public criticism of the Authority. Pop ups and other similar features are prohibited. Such web site advertising shall also comply with subsection (b) of this section, including the Guidelines Governing Commercial Advertising.

**PRESENTED AND ADOPTED: May 18, 2006**

**SUBJECT: REVISIONS TO THE USE REGULATION CONCERNING THE USE BY  
OTHERS OF WMATA PROPERTY**

2006-24  
**RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

WHEREAS, In 1980, the Board of Directors (the "Board") adopted Board Resolution #80-19, in which it declared that it would allow the use of WMATA property by others for a limited number of activities, including some commercial activity, but clearly stated its intent to closely monitor/control such use; and

WHEREAS, In 1987, the Board adopted Board Resolution #87-02, promulgating the Regulation Concerning the Use By Others of WMATA Property (the "Use Regulation") to codify the policy expressed in Board Resolution #80-19, and allowed some additional activities; and

WHEREAS, In 1995, the Board adopted Board Resolution #95-27, amending the Use Regulation to allow WMATA to lease WMATA property for the installation of communications antennas and equipment in addition to fiber optic cables; and

WHEREAS, In 2002, the Board adopted Board Resolution #2002-47, amending the Use Regulation to allow WMATA to use its parking facilities for non-transit, public parking, civic uses, and limited commercial uses; and

WHEREAS, In 2004, the Board adopted Board Resolution #2004-07 and #2004-35, making many substantive changes to the Use Regulation, one of which was to allow commercial use (excluding the sale of food, beverage and tobacco) of Authority-owned facilities, including the free areas of Metrorail stations, subject to Board approval prior to the initiation of such commercial use; and

WHEREAS, Staff now proposes to issue a Request for Proposals to select a licensee(s) to install and operate retail concessions at twelve (12) Metrorail stations to provide frequently-used/needed goods or services as a convenience to transit customers and to produce a source of revenue for WMATA; and

WHEREAS, Three (3) designated sites (Metro Center, Gallery Place-Chinatown, and College Park/UMd Metrorail Stations) do not have sufficient space in the free areas for such commercial activity and commercial activity is proposed for the paid areas of those stations; and

**Motioned by Mr. Deegan, seconded by Mr. Kauffman**

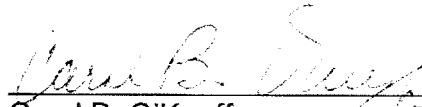
**Ayes: 6 - Mrs. Mack, Mr. Deegan, Mr. Zimmerman, Mr. Graham, Mr. Smith, Mr. Kauffman**

WHEREAS, Staff recommends that the Board adopt revisions to the Use Regulation, attached hereto as Exhibit A, to allow commercial ventures (retail sites) in both free and paid areas of Metrorail stations where safety and security permit such use; now, therefore be it

*RESOLVED*, That the Board adopts the revision to the Use Regulation, attached hereto as Exhibit A, to allow for commercial ventures, such as concession stands, where safety and security permit, to provide frequently-used/needed goods or services as a convenience to transit customers and to produce a source of revenue for WMATA, subject to Staff receiving prior Board approval for each venture; and be it finally

*RESOLVED*, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,

A handwritten signature in cursive script, appearing to read "Carol B. O'Keeffe", is written over a horizontal line.

Carol B. O'Keeffe  
General Counsel

## EXHIBIT A

Section 100.7 (Definitions) of the Regulation Concerning the Use by Others of WMATA Property:

(e) "Commercial Use of Authority-owned Facilities" means the use of the Authority's parking facilities/structures, ~~free areas~~ of Metrorail stations, Metrobus garages, rail yards and office buildings for commercial ventures, such as, office space and retail ventures (sale of products or services, except food, drink and tobacco, deemed to reduce the travel time of transit users by providing easy access to frequently used/needed products or services). Each commercial use requires Board approval.

SUBJECT: Revisions to the Use Regulation Concerning the Use by Others of  
WMATA Property

2004-35  
RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, In 1980, the Board adopted Board Resolution #80-19, in which it declared that it would allow the use of WMATA property by others for a limited number of activities, including some commercial activity, but clearly stated its intent to closely monitor/control such use; and

WHEREAS, In 1987, the Board adopted Board Resolution #87-02, adopting the Regulation Concerning the Use By Others of WMATA Property (the Use Regulation), codifying the policy expressed in Board Resolution #80-19, but allowing some additional activities; and

WHEREAS, In 1995, the Board adopted Board Resolution #95-27, amending the Use Regulation to allow WMATA to lease WMATA property for the installation of communications antennas and equipment in addition to fiber optic cables; and

WHEREAS, In 2002, the Board adopted Board Resolution #2002-47, amending the Use Regulation to allow WMATA to use its parking facilities for non-transit, public parking, civic uses, and limited commercial uses; and

WHEREAS, The Use Regulation currently allows advertising on Metrobus and Metrorail systems, prohibits advertising in or on bus shelters, and requires Board approval of advertising inventory in areas where advertising is allowed; and

WHEREAS, WMATA is currently facing significant budgetary shortfalls, and needs to find innovative ways to increase non-passenger revenue; and

WHEREAS, On May 20, 2004, Staff presented the Board with the following new initiatives to help generate much needed revenue:

- (1) Advertisements on bus shelters, conditioned on Staff receiving the necessary approval from the surrounding jurisdictions;
- (2) Installation of Automated Teller Machines in the free areas of Metrorail stations;
- (3) Installation of Computerized Electronic Passenger Information and Advertising Displays in Metrorail cars and Metrobuses in addition to Metrorail station platforms

Motioned by Mrs. Mack, seconded by Mr. Graham

Ayes: 6 - Mr. Smith, Mrs. Mack, Mr. Deegan, Mr. Zimmerman, Mr. Graham, Mrs. Hudgins

and mezzanines; and

WHEREAS, On May 20, 2004, the Board approved the new advertising revenue initiatives, but referred the modifications of the Use Regulation to implement the initiatives back to the Budget Committee for further review; and

WHEREAS, Staff now additionally proposes that the Board allow commercial uses (excluding food, beverage and tobacco) of WMATA property beyond parking facilities to additional WMATA property, including the free areas of Metrorail stations, subject to Staff obtaining Board approval prior to initiating any such commercial use; and

WHEREAS, Staff also proposes miscellaneous revisions to the Use Regulation to ensure consistency with FTA requirements, reflect recently-allowed uses, remove restrictions on access to free speech that have been found to be unenforceable, and change the title of "General Manager" to "General Manager/Chief Executive Officer;" and

WHEREAS, Staff recommends that the Board adopt the revisions to the Use Regulation, attached hereto as Exhibit A, to allow the above-referenced, revenue-producing activities and miscellaneous revisions; and

WHEREAS, Staff also recommends that the Board approve as additional advertising inventory:

- (1) Train tunnels of Metrorail stations;
- (2) Bus shelters for advertising, conditioned on Staff obtaining the necessary permission from the jurisdictions where the bus shelters are located;
- (3) Exterior of Metrorail cars for wrapped advertising, conditioned on Staff obtaining the necessary permission from the jurisdictions;
- (4) Exterior of Metrobuses for wrapped advertising; now, therefore, be it

*RESOLVED*, That the Board of Directors adopts the revisions to the Use Regulation, attached hereto as Exhibit A, to allow the following revenue-producing activities:

- (1) Advertising on bus shelters conditioned on Staff obtaining authorization, when necessary, from the relevant jurisdictions;
- (2) The installation of Automated Teller Machines in the free areas of Metrorail stations;
- (3) The installation of Computerized Electronic Passenger Information and Advertising Displays in Metrorail cars and Metrobuses as well as on Metrorail station platforms and mezzanines;
- (4) Commercial use of Authority-owned property, including the free areas of Metrorail stations, conditioned on Staff complying with all relevant restrictions

where such facilities were funded through bond issuances and subject to Staff obtaining Board approval prior to initiating each new commercial use; and be it further


**RESOLVED**, That the Board approves the miscellaneous revisions to ensure consistency with FTA requirements, reflect recently-approved uses, remove restrictions on access to free speech areas that have been found to be unenforceable, and change the title of "General Manager" to "General Manager/Chief Executive Officer;" and be it further

**RESOLVED**, That the Board of Directors of the Washington Metropolitan Area Transit Authority specifically expands WMATA's advertising inventory to include:

- (1) Bus shelters, conditioned on Staff obtaining the necessary authorization from the surrounding jurisdictions;
- (2) Metrorail station tunnels;
- (3) Exterior of Metrorail cars for wrapped advertising, conditioned on Staff obtaining the necessary authorization from the relevant jurisdictions;
- (4) Exterior of Metrobuses for wrapped advertising; and be it further

**RESOLVED**, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency.

  
\_\_\_\_\_  
Cheryl C. Burke, General Counsel

PART 100  
REGULATIONS CONCERNING THE  
USE OF WMATA PROPERTY  
PREAMBLE

On March 27, 1980, the WMATA Board of Directors adopted Resolution No. 80-19 which detailed the limited use by others of property owned or controlled by WMATA. The Board recognized that WMATA property had been purchased with public funds, that there was a significant demand for the use of the property, and that the Board had a responsibility for the safety of the riding public. The approved activities included certain commercial, transit-related, real property, and first amendment uses such as expressions of political thought and religious belief.

Since the adoption of Resolution No. 80-19, WMATA has been receiving an increasing number of requests from commercial establishments and other interest groups seeking access to WMATA facilities. This proposed regulation has been developed to ensure that WMATA property is used safely, and in furtherance of its dedicated purpose. The regulation will have the affect of binding the Authority to its provisions unless it is later amended at a public session of the Authority's Board of Directors. The intent of the regulation is to make it clear that upon its adoption by the WMATA Board of Directors all WMATA operating and non-operating property shall be preserved for the use to which it was lawfully dedicated; and that the use and activities by the public of WMATA property shall be consistent with that status. The regulation will not permit any discretion on the part of the staff or the Board with respect to the particular activities allowed.

Because advertising ~~in buses, railcars, and Metrorail stations~~ is a source of significant revenue to the Authority, advertising will be allowed **in/on Board-approved inventory of buses, bus shelters, railcars and Metrorail-stations, including tunnels. Bus shelter advertising will be conditional on obtaining the necessary authorizations from the surrounding jurisdictions.** ~~Advertising in or on bus shelters is prohibited.~~ In addition to advertising, other revenue producing activities which will be allowed are: filming and photography; automated teller machines; electronic graphics; fiber optics; leasing of excess and future operational property; paid public-telephone service; newspaper vending machines; **incidental, non-transit public use of Authority-owned parking facilities; civic use of Authority-owned parking facilities; and commercial use of Authority-owned facilities.** ~~Certain authorized uses of property included in this Regulation have not yet been approved by the Board; they are contained in Section 100.14; Section 100.15; and Section 100.16. Those Sections will become operational after specific approval of those activities by the Board.~~ This regulation excludes from its scope the following uses of Authority property: transit related uses, joint development, and utility activities.



Uses of WMATA property not described in this Regulation or specifically excluded from its scope are prohibited.

Modifications to this regulation must be made by an affirmative vote of the Authority's Board of Directors at a public session.

## **SUBPART A - GENERAL**

### **Section 100.1 Applicability**

The regulation describes the types of activities that may be conducted on Authority property by non-Authority personnel or by the public. This regulation also establishes criteria under which a permit or contract may be obtained that will enable the requestor to use the property for one of the allowed purposes. This regulation is necessary to preserve the facilities of the Authority for their dedicated purpose, to provide for the safe and efficient operation of the system, and to further the equitable distribution of licenses and contracts to the public for allowable activities.

No person shall be allowed to use WMATA property except:

- WMATA Employees, Officers, and Directors acting within their official capacity. When not acting within their official capacity: employees, officers, and directors of the Authority shall be treated as 'others'.
- Officials, employees, and agents of the signatories to the WMATA Compact (Maryland, Virginia, and the District of Columbia) members of the Washington Metropolitan Area Transit Zone of the District of Columbia, the cities of Alexandria, Falls Church and Fairfax and the counties of Arlington and Fairfax and political subdivisions of the Commonwealth of Virginia located within those counties; and the counties of Montgomery and Prince George's in the State of Maryland and the political subdivisions of the State of Maryland located in those counties; ; and of the U.S. Government while acting on official business as it relates to WMATA facilities.
- Contractors, agents, subcontractors and supplies under contract with WMATA and only with respect to designated physical areas covered by the contract.
- Passengers on the WMATA rail and bus system and other transit-related users.
- Individuals or corporations who by the issuance of a permit or contract pursuant to these regulations are granted limited use Access to Authority property for the purpose of engaging in allowable activities will only be authorized when the safety of Authority employees and transit patrons can be assured. Ingress and egress of patrons accommodated, and normal transportation services operated without disruption. Permits and/or contracts for limited use shall be granted for the following purposes:

Filming/Photography

Advertising on Metrobus and Metrorail systems

Free Speech Activities

Vending of Newspapers

Interim Use of Excess Property

Interim Use of Future Operational Property

Automated Teller Machine

Computerized Electronic Passenger Information and Advertising Displays

Fiber Optic Cables

Public Telephone System

**Incidental, non-transit public use of Authority-owned parking facilities**

**Civic Use of Authority-owned parking facilities**

**Commercial Use of Authority-owned facilities**

This regulation excludes from its scope of the following uses of Authority property: transit related uses, joint development, and utility activities.

The Authority expressly reserves the right to cancel for a reasonable period of time any permit activity for operational or safety reasons.

## SUBPART B - PERMIT AND CONTRACT PROCEDURE

### Section 100.2 Permits

(a) Issuance. Subject to the availability of space a permit shall be issued giving the applicant the privilege to conduct a specific allowable activity on the Authority's property. Permits shall be issued at 600 5<sup>th</sup> Street, N.W. during normal business hours of the Office of General Counsel or by mail on a "first-come first-served" basis and shall be limited in duration in accordance with the demand schedule for the selected property. Permits are not transferable. Should the Authority determine that the number of applications for permits exceeds the space available at any location, the Authority shall allocate the remaining available space by a random lottery.

(b) Contents. The permit shall contain the following terms and conditions: the name of the individual or group, number of individuals in group, the activity, time and duration of activity and location of the allowed activity. The permit will also provide that the permittee will be

responsible for depositing any trash resulting from free speech activities in appropriate trash containers.

(c) Extensions. The specified duration of the permit will not be extended. The permit holder may file an application for a new permit at any time which shall be issued on a space available, first-come first-served basis. In such a case, the applicant may incorporate by reference any required documentation filed with a previous permit application.

(d) Denial of Permit. An application for a permit for allowable activity will only be denied if a person designated by the Authority signifies that the requested space is unavailable, the proposed activity would cause a safety problem, or the planned activity is prohibited. Such denial will be made promptly. Revocation of a prior permit is a basis for the denial of a subsequent application for a reasonable period of time, not to exceed three months.

(e) Revocation. A permit may be revoked if the permit holder violates the terms and conditions of the permit.

### Section 100.3 Contracts

(a) Issuance. Where a contract is required as specified below, the applicant shall enter into a contract with the Authority concerning the allowed activity.

(b) Contents. The contract shall contain the name of the individual or group, the activity, time and duration of activity, the location of the allowed activity, and indemnification and insurance provisions.

(c) Compliance. Contracts shall be entered into between the Authority and the Applicant in accordance with the Authority's procurement regulations.

### Section 100.4 Indemnification and Insurance

(a) Indemnification. Each applicant who requests to undertake an approved activity on Authority property shall agree to fully indemnify and save harmless the Authority against any and all liability arising out of its activities. The requirement for indemnification shall not be applicable to those individuals exercising First Amendment activities.

(b) Insurance. Prior to commencing activities on Authority property, each applicant who requests to undertake an approved activity on authority property shall provide an acceptable policy of insurance coverage appropriate to the activity in accordance with the established insurance schedule. The requirement for insurance shall not be applicable to those individuals exercising First Amendment activities.

### Section 100.5 Standards of Conduct

(a) **Time and Number of Individuals.** The allowed activity shall be conducted within the time period stated in the permit or contract, and with a maximum number of individuals as stated in the permit or contract.

(b) **Interference with Transit Riders, the Public, and Other Activities.** Even when an activity has been approved, the performance of that activity shall not interfere with the safety of transit riders or the public, the efficient operation of the transit system, or other activities being conducted on Authority property.

#### Section 100.6 Violation of Regulations

(a) **Unauthorized Activity.** If the Authority determines that any organization or individual is conducting an unauthorized activity on Authority property, the Authority shall so notify the violator and the activity shall be stopped or the violators shall immediately leave the Authority property. Failure to stop the unauthorized activity or to leave the Authority property when so requested shall constitute a trespass and the violators shall be arrested and subject to fine or imprisonment in accordance with local criminal laws and ordinances.

(b) **Unauthorized Performance of an Authorized Activity.** If the Authority determines that any organization or individual is conducting an authorized activity in an unauthorized manner in violation of these regulations, the permit, or the contract, the Authority 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 the Authority property. Failure to stop the unauthorized performance of the authorized activity when so requested shall constitute a trespass and the violators shall be arrested and subject to fine or imprisonment in accordance with local criminal laws and ordinances.

#### Section 100.7 Definitions

(a) For the purposes of this regulation "advertising" means a printed or electronic media display for the purpose of conveying a message.

(b) For the purposes of this regulation, "automated teller machine" (ATM) means electronic banking equipment which permits patron access to routine banking functions. ~~ATM's will also vend pre-coded Metrorail farecards and/or WMATA flash passes and/or family Tourist passes.~~ **ATMs located on WMATA property will be allowed to display the name, slogan and/or logo of the originating bank/entity.**

(c) For the purposes of this regulation "commercial activity" means any enterprise or venture by groups or individuals for the purpose of promoting or selling products or services, **except food, drink and tobacco** to transit patrons or the public.

(d) For the purposes of this regulation, "director" means a member or alternate member of the

WMATA Board of Directors.

(e) For the purposes of this regulation, "employee" means any part-time or full-time, temporary or permanent, exempt or non-exempt, represented or non-represented individual including interns who is compensated by the authority for his or her services by wages, salary or other remuneration.

(f) For the purposes of this regulation "excess property" means any real property designated excess by the General Manager following a screening process verifying that there are no construction, operation, maintenance, or transit-related requirements for the property.

(g) For the purposes of this regulation "executive order" means a description of an internal administration procedure which implements WMATA policy or which defines standard operating procedures.

(h) For the purposes of this regulation "free speech activity" means the organized exercise of rights and privileges which deal with political, religious, or social matters and are non-commercial.

(i) For the purposes of this regulation, "joint development use" or "joint development" is defined as the development of WMATA-owned or controlled real property interests at or near mass transit facilities which have significant development potential — including, but not limited to, incidental non-transit, public use of parking spaces and/or commercial or retail use in parking facilities — to achieve close physical integration of transit facilities with commercial/retail, recreational/entertainment, and residential development with the objective of developing transit-oriented development projects that encourage reduced automobile dependency, promote and enhance ridership and patron convenience by providing the opportunity to obtain goods and services near transit stations, and encourage revitalization and growth in communities which WMATA serves.

(j) For the purposes of this regulation, "leaflet" means small printed material unfolded or folded.

(k) For the purposes of this regulation "newspapers" means any publication, intended for general circulation, published regularly or short intervals, and containing information and editorials on current events and news of general interest.

(l) For the purposes of this regulation "not-for-profit" means any activity by a religious, educational, scientific, philanthropic, agricultural, labor, veteran's or fraternal organization or association that is not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual.

(m) For the purposes of this regulation "public service" means the objects and enterprises which specifically serve the needs of the general public or are conducive to the comfort and convenience of the entire community.

(n) For the purposes of this regulation, "space available" means that sufficient square footage is

available so that the activity will not adversely affect the safety or security afforded the general public nor will the activity interfere in the normal operation of the public transportation system.

(o) For the purposes of this regulation, "transit-related use" means: use of Metrorail transportation facilities by (1) Metrobus; (2) transit services operated by or for WMATA Compact member jurisdictions; (3) transit services operated by or for other public agencies; and (4) private providers of transit services to the general public; and activities related to the promotion of the above transit services on WMATA facilities.

**(p) For the purposes of this regulation, "computerized electronic passenger information and advertising displays" include, but are not limited to, light emitting diode (LED) displays, video monitors, computer monitors and plasma screens.**

**(q) Incidental, Non-transit, Public Use of Authority-owned Parking Spaces.** For purposes of this regulation "incidental non-transit, public use of Authority-owned parking spaces" is defined as the use of Authority's parking facilities by non-transit or non-transit-related users for parking only.

**(r) Commercial Use of Authority-owned Parking Facilities.** Commercial use is defined as the use of the Authority's parking facilities/structures, **free areas of Metrorail stations, Metrobus garages, rail yards and office buildings** for ~~non-parking~~ commercial ventures, such as, office space, and retail ventures (sale of products or services, **except food, drink and tobacco** deemed to reduce the travel time of transit users by providing easy access to frequently used/needed products or services). **Each commercial use requires Board approval. The Authority shall promulgate criteria for selecting commercial/retail services that contribute to transit-oriented development, and on a biennial basis, shall review and update the criteria for selecting such services.**

**(s) Civic Use of Authority-owned Parking Facilities.** Civic use of Authority-owned parking facilities is defined as use of Authority-owned Parking Facilities by municipal, county or state agencies/organizations of the Compact jurisdictions or organizations sponsored or created by municipal, county or state agencies/organizations of the Compact jurisdictions for non-commercial activities that support/serve WMATA Compact jurisdiction communities.

**(t) For purposes of this regulation, "community purpose" is defined as any use of WMATA property which provides a benefit to the surrounding neighborhood *or jurisdiction* and/or WMATA customers.**

## SUBPART D - ALLOWABLE ACTIVITIES

### Section 100.8 Filming and Photography

(a) Activities. This section applies to the following activities:

(I) The filming of motion pictures, television commercials, and promotional and educational films. Television and newspaper press crews of five or fewer individuals and without any "plug-in" equipment are not subject to this regulation.

(i) Fees

(1) The fees and charges assessed 'commercial activity' filming will provide for a one-time set-up and ongoing administrative and operational hourly costs plus a 35 (thirty-five) percent margin of overhead.

(2) The fees and charges for 'not-for-profit' filming will be sufficient to cover all one-time and ongoing administrative and operational costs.

(3) A schedule shall provide hourly charges for the use of stations, and necessary administrative, security and operational personnel, and required equipment.

(4) The entire estimated fee to be charged for 'commercial activity' and 'not-for-profit' filming must be paid prior to the scheduled start of filming. Any charge over the estimate will be payable within 30 days of billing.

(ii) Time of Activity

Request for filming will be assessed on an individual 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.

(iii) Permit

Requests for a permit will be accompanied by scripts and storyboards at least 10 working days prior to the requested filming date. Requests will not be authorized which would suggest to viewers activities that would be in violation of the laws of the signatories, the laws, ordinances, and regulations of the political subdivisions in the transit zone, and the rules and regulations of the Authority.

(II) Still photography that does not require a tripod, special lighting, film crews, models, impair the normal ingress/egress or operation of Authority services and can be accomplished by a hand held camera by one person is not regulated. Requests for photographic access that involve a camera crew of three or less, two pieces of lighting equipment or less, does not involve the use of a tripod, does not require assistance of Authority technical personnel or significantly impair the normal ingress/egress or operations will be allowed. Requests for a permit must be made two working days prior to the requested date of photography. Photography and filming that requires the use of models, special lighting equipment beyond two pieces, tripods, assistance and supervision from Authority staff, crews of more than three, or that impairs ingress/egress or normal system operations shall be governed by section 100.8(a)(i). Television and newspaper press crews of five or fewer individuals and without any "plug-in" equipment are not subject to this regulation.

(i) Fees

The fee charged for each hour of use of the Authority's property shall be in accordance with a schedule established by the Authority. The fee must be paid in advance by cash, certified check or money order. A fee shall not be charged for photography by an individual with a hand held camera for an individual's own use.

(ii) Time of Activity

Requests for photography will be assessed on an individual 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.

(b) Permits and Contracts

(i) Each person who requests and is granted authorization to undertake 'commercial' or 'not-for-profit' filming or photography activity on Authority property shall enter into a contractual agreement with the Authority in accordance with Section 100.3. contracts.

(ii) Each person except as stated in Section 100.8(a) (II) who requests and is granted authorization to undertake still photography or hand held camera filming shall be issued a permit issued by the Authority in accordance with Section 100.2, permits.

(c) Indemnification and Insurance

(i) Each person who requests to undertake 'commercial' or 'not-for-profit' filming on Authority property shall provide a policy of liability insurance and shall agree to indemnify the Authority for any and all liability arising out of its activities pursuant to Section 100.4, Indemnification and Insurance.

(ii) Each person who requests to undertake still photography or hand-held camera filming on Authority property shall not be required to provide a policy of insurance or indemnification.

Section 100.9 Advertising on Metrobus and Metrorail Systems.

(a) Activities. This section applies to the following activities.

(1) Advertising on the Authority's Metrobus and Metrorail systems installed in **Authority Board approved advertising inventory of buses, bus shelters, railcars, and Metrorail stations, including tunnels. See Appendix A (List of Board-approved advertising inventory).**

(b) Type of Advertising

(1) ~~All advertising on the Authority's property shall reflect a high level of good taste and decency in copy and art.~~ **All advertising on the Authority's property shall comply with the applicable advertising guidelines that govern advertising inventory.**



(2) All advertising shall be truthful and in compliance with the laws of the signatories; the laws, ordinances, and regulations of the political subdivisions in the transit zone; and the rules and regulations of the Authority.

(3) Advertising which is false or misleading is prohibited.

(4) The use of the Authority's graphics or representations in advertising is subject to the Authority's approval.

(5) The Authority reserves the right to reject or remove any advertising which is in violation of the laws of the signatories; the laws, ordinances and regulations of the political subdivisions in the transit zone; or the terms and conditions of the contractual agreement.

(c) Contract. An advertising franchise shall be established in accordance with the Authority's procurement regulations. The franchisee shall enter into a contract with the Authority in accordance with Section 100.3 contracts.

(d) Indemnification and Insurance. Each person who requests to undertake 'commercial' and 'not-for-profit' advertising on Authority property in accordance with Section 100.7 shall indemnify the Authority for any and all liability arising out of its activities pursuant to Section 100.4, Indemnification and Insurance.

#### Section 100.10. Free Speech Activities

(a) Activities. This section applies to free speech activities as defined in Section 100.7.

~~(b) Permit. {Unenforceable per 893 F.2d. 1387 (1990)}~~

~~(c) Modification and Suspension. {Unenforceable per 893 F.2d. 1387 (1990)}~~

~~(d b) Location.~~ Free speech activities are permitted in the free-area - "above ground" of metro stations. All free speech activities are to take place at a distance greater than fifteen (15) feet from any escalator, stairwell, faregate, mezzanine gate, kiosk, or fare card machine. In no instances are any free speech activities to take place in the paid or platform areas of the station, or in the underground portions of stations. No free speech activities may interfere with the pedestrian traffic flow in the usual egress and ingress to the station proper or to the faregate.

~~(e) Number of Individuals. {Unenforceable per 893 F. 2d 1387 (1990)}~~

~~(f c) Leafleting.~~ The distribution of leaflets in connection with free speech activities is permitted.

~~(gd) Prohibitions.~~ No individual carrying out free speech activities will carry out any commercial activity. Those carrying out free speech activities will not:

1. distribute food or drink **or tobacco**.

2. post any commercial signs, advertisements, circulars, or printed material.
3. Set up any tables or other portable equipment. This prohibition does not apply to official use by local jurisdictions at those stations where the Authority has determined that space is available.
4. Carry any signs or placards that are more than 18" by 18" or are affixed to a pole.
5. Affix any material to any part of the WMATA structure.
6. Permit leaflets or other printed material to be left unattended.

#### Section 100.11 Vending of Newspapers

(a) Activities. This section applies to the sale and distribution of newspapers from vending machines at Metrobus terminals and Metrorail stations. Because of safety and fire considerations, human vendors and the chaining of any newspaper vending machines to Authority property is prohibited.

(1) Newspaper vending machines (vendors) may be located where designated by the Authority. At underground Metrorail stations, vendors shall be placed on the underground mezzanine level, i.e., in the free area between the bottom of the first entrance escalator and the fare paying area. At certain underground and surface stations, vendors may be placed at ground level mezzanine or surface exterior locations designated by the Authority pursuant to (3) below. Newspaper vending activities are prohibited on the subway platform area of the stations and on the trains. At designated Metrobus terminals, exterior newspaper vendors may be located where determined by the Authority.

(2) All newspaper vendors whether located in the interior or on the exterior of station property or on the exterior of Metrobus terminals shall be designed in accordance with plans and specifications adopted by the Authority. The Authority shall adopt a uniform design for all interior vendors and a second uniform design for exterior vendors. The design will be in conformance with applicable regulations, and in furtherance of the aesthetic integrity of the property. The total cost of the construction and installation of the machines shall be borne by the vendor owners.

(3) The Authority will conduct a station-by-station survey to determine the amount of space available that may be used for newspaper vending machines. Safety and ingress and egress of passengers will be the principal considerations in evaluating space limitations.

(b) Contract. A Newspaper Vending Agreement shall be executed with the Authority and shall grant to the vendor the non-exclusive right to place newspaper vending machines in designated Metrobus terminals and Metrorail stations for a one year period of time. The number of vendors at each location shall be determined by the availability of space. Selection of vendors shall be made by a station-by-station lottery after the available space is determined by survey. Any one newspaper may receive a maximum of three vending machine spaces per station through the

lottery. Should any space remain available following the lottery, a newspaper may apply for that space and shall not be restricted to a maximum of three machines at that location. Contractual agreements will be granted pursuant to Section 100.3, contracts.

(c) Indemnification and Insurance: The newspaper vendor shall, as part of the contractual agreement, agree to fully indemnify the Authority for any and all liability arising out of the operation of the newspaper vendors and provide a policy of liability insurance pursuant to Section 100.4, Indemnification and Insurance.

#### Section 100.12 Interim Use of Excess Property

(a) Activities. This section applies to the use of excess property where final disposition is pending and where the property is not part of the planned operating system. Activities shall be allowed which foster:

- (1) maintenance of properties in a neat and orderly condition,
- (2) non-profit individual and community purposes,
- (3) reduction or avoidance of maintenance costs by the Authority,
- (4) revenues offsetting any administrative costs,
- (5) production of revenues through out-leasing.

(b) Permits and Contracts. Each person who requests and is granted authorization to undertake an approved activity on the Authority's excess property shall be accommodated by a contract pursuant to Section 100.3, contracts, and shall be issued a permit pursuant to Section 100.2, permits.

(c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake an approved activity on the Authority's excess property shall agree to indemnify the Authority for any and all liability arising out of their activities and provide a policy of insurance pursuant to Section 100.4, Indemnification Insurance.

#### Section 100.13 Interim Use of Future Operational Property

(a) Activities. This section applies to the interim use of property owned or controlled by the Authority which is temporarily not required but will be needed in the future as part of the operating system. Activities shall be allowed which foster and are consistent with:

- (1) production of revenue in excess of costs for the Authority;
- (2) maintenance of properties in a neat and orderly condition.

The following specific uses among others are specifically authorized:

(1) holdover use by former owners or tenants;

(2) out-leases with former owners, or their tenants in possession, or new leases.

(b) Permits and Contracts. Each person who requests and is granted authorization to undertake an approved activity on the Authority's property in accordance with this section shall be accommodated by a contract pursuant to Section 100.3, contracts and shall be issued a permit.

(c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake an approved activity on the Authority's property in accordance with this section shall agree to indemnify the Authority for any and all liability arising out of their activities and provide a policy of insurance pursuant to Section 100.4, Indemnification and Insurance.

#### Section 100.14 Automated Teller Machines\*

(a) Activities. This section applies to the **placement following activities undertaken for a one-year demonstration of Automated Teller Machines (ATMs) at New Carrollton, Bethesda, Rosslyn, Metro Center, Potomac Avenue, and Huntington Station Metrorail stations.**

(b) Location. The installation of automated teller machines is only permissible within the free area of the station mezzanine in close proximity to the **station manager's kiosk and the farecard sales area.** The exact location of the ATM will be determined by the Authority.

(c) Contract. An automated teller machine **one-year franchise license** shall be established in accordance with the Authority's procurement regulations. The ~~franchisee~~ **licensee** shall enter into a contract with the Authority in accordance with Section 100.3, contracts.

(d) Indemnification and Insurance. Each ~~person who~~ **entity that** is granted an ATM **franchise license** shall indemnify the Authority for any and all liability arising out of its activities pursuant to Section 100.4, Indemnification and Insurance.

~~\*As of January 15, 1987, this activity has not been approved by the WMATA Board of Directors.~~

#### Section 100.15 Computerized Electronic Passenger Information and Advertising Displays\*

(a) Activities. This section applies to the implementation of Computerized Electronic Passenger Information and Advertising Displays on platforms and in mezzanines of Metrorail stations **as well as in Metrorail cars and Metrobuses.**

The principal function of the system(s) will be to display useful, timely, and accurate ~~Metrorail information~~ **Metro service updates and/or news updates** to rail and bus patrons. A secondary

function of the hardware will be to allow commercial advertisements to be displayed ~~when the system is not being utilized by the Authority in a manner that does not interfere with the principal function of the equipment.~~ The types of advertising allowed is governed by Section 100, Advertising on Metrobus and Metrorail systems.

(b) Contract. A computerized electronic display contract shall be entered into between the applicant and the Authority pursuant to the Authority's procurement regulations and in accordance with Section 100.3 contracts.

(c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake computerized electronic display advertising shall indemnify the Authority for any and all liability arising out of its activities and provide a policy of liability insurance pursuant to Section 100.4, Indemnification and Insurance.

- ~~As of January 15, 1987, this activity has not been approved by the WMATA Board of Directors.~~

#### Section 100.16 Fiber Optic Cables\*

(a) Activities. Fiber optic cables will be installed along the Authority's rights-of-way service corridors. Any fiber optic cable capacity not required by the Authority may be leased for commercial purposes.

(b) Contract. A fiber optics contract shall be entered into between the applicant and the Authority's procurement regulations, and in accordance with section 100.3. contracts.

(c) Indemnification and Insurance. Each person who is granted a franchise shall indemnify the Authority for any and all liability arising out of its activities and provide a policy of liability insurance pursuant to section 100.4, Indemnification and Insurance.

- ~~As of January 15, 1987, this activity has not been approved by the WMATA Board of Directors.~~

#### Section 100.17 Public Telephone Service

(a) Activities. This section applies to the installation of a public telephone service located in the Metrorail and Metrobus systems. The service shall be provided by either the Authority directly or through contract pursuant to the Authority's procurement regulations and in accordance with Section 100.3. contracts.

#### Section 100.18. Incidental, Non-transit, Public Use of Authority-Owned Parking Spaces

(a) Activity. This section applies to incidental non-transit, public use of Authority-owned parking

facilities, as defined in section 100.7., that are normally allocated for use by WMATA rail and bus system patrons and other transit-related users.

(b) Time. Incidental, non-transit, public use of Authority-owned parking facilities may take place only during off-peak and/or non-revenue time periods, or as otherwise approved by the Board of Directors.

(c) Availability: Incidental, non-transit, public use of Authority-owned parking facilities may be available when (i) the Authority deems that the use does not present a safety concern, (ii) there are sufficient remaining parking spaces for transit system patrons and other transit-related users, and (iii) ~~the use is consistent with FTA requirements, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding facilities, such as the WMATA surcharge program agreements.~~ **the use is consistent with FTA requirements, the 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.**

(d) Fees. The appropriate compensation for the use of Authority-owned parking facilities shall be established by the **General Manager/Chief Executive Officer, or his/her designee**, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge amount, if any, established for the particular Metrorail station plus an amount sufficient to cover all administrative, operating, and maintenance costs.

#### ~~Section 100.19. Commercial Use of Authority-Owned Parking Facilities~~

~~(a) Activity. This section applies to commercial use of Authority-owned parking facilities as defined in section 100.7.~~

~~(b) Availability. Commercial use of Authority-owned parking facilities may be available when (i) the Authority determines that the use serves a community purpose, (ii) the Authority deems that the use does not present a safety concern, and allows sufficient remaining parking spaces for passengers of the transit system and other transit-related users; and (iii) the use is consistent with FTA requirements, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding facilities, such as the WMATA surcharge program agreements.~~

~~(c) Permit. Each entity/person that/who is allowed to sell its products or services or rent space where/when space is available shall enter into a license, lease, or other appropriate agreement which satisfies the requirement of section 100.4 of this regulation concerning indemnification and insurance.~~

~~(d) Fees. The appropriate compensation for the use of Authority-owned parking facilities shall be established by the Chief Executive Officer, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge~~

~~amount, if any, established for the particular Metrorail station plus an amount sufficient to cover all administrative, operating, and maintenance costs.~~

#### Section 100.20 19. Civic Use of Authority-owned Parking Facilities

(a) This section applies to civic activities sponsored by municipal, county or state agencies/organizations of the Compact jurisdictions.

(b) Time: Civic use of Authority-owned parking facilities shall take place only during off-peak and/or non-revenue time periods.

(c) Availability: Authority-owned parking facilities may be available for civic activities only when (i) the Authority deems that the use does not present a safety concern, (ii) the use allows sufficient remaining parking spaces for passengers of the transit system and other transit-related users; (iii) the Authority determines that the planned activity serves/supports the surrounding community; and (iv) ~~the use is consistent with FTA requirements, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding facilities, such as the WMATA surcharge program agreements~~ **the use is consistent with FTA requirements, the 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.**

(d) Permit. Each organization that is allowed to host an activity where/when space is available shall enter into a license, lease, or other appropriate agreement which satisfies the requirement of section 100.4 of this regulation concerning indemnification and insurance. **Such license/lease/agreement shall also establish that WMATA restrooms are not available to attendees at the civic activity; shall require the organization hosting the activity to provide its own restroom facilities, if necessary; and shall require the organization to clean up and remove all trash that results from the activity.**

(e) Fees. The appropriate compensation for the use of Authority-owned parking facilities shall be established by the **General Manager/Chief Executive Officer, or his/her designee**, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge amount, if any, established for the particular Metrorail station plus an amount sufficient to cover all administrative, operating, and maintenance costs, **including cost of additional electricity and any additional clean up and removal of trash needed.**

#### Section 100.20. Commercial Use of Authority-owned Facilities.

**(a) Activity.** This Section applies to commercial use of Authority-owned facilities as defined in Section 100.7.

**(b) Availability:** Commercial use of Authority-owned facilities may be available when (i) the Authority determines that the use serves a community purpose, (ii) the Authority deems that the use does not present a safety concern and does not interfere with transit operations, (iii) the use is consistent with FTA requirements, the bond and other indebtedness, including, but not limited to, the WMATA 1995 Gross Revenue Transit Bond Resolution, the WMATA 2003 Gross Revenue Bond Resolution, any supplemental bond resolutions and applicable agreements concerning funding facilities; and the use is approved by the WMATA Board of Directors.

**(c) Permit.** Each entity/person that/who is allowed to sell products or services (excluding food, drinks and tobacco) or rent space where/when space is available shall enter into a license, lease, or other appropriate agreement in accordance with WMATA Procurement Regulations and the requirement of Section 100.4 of this regulation concerning indemnification and insurance. Such license/lease/agreement shall also establish that WMATA restrooms are not available to customers of the commercial entity who are not transit customers; shall require the commercial entity to provide its own restroom facilities if necessary; and shall require the commercial entity to provide clean up and removal of all trash that results from the commercial use.

**(d) Fees.** The appropriate compensation for the use of Authority-owned facilities shall be established by the General Manager/Chief Executive Officer, or his/her designee, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels. At a minimum, the amount should be enough to cover administrative, operating, and maintenance costs, including the cost of additional electricity due to commercial use, trash removal and additional clean up costs generated by the commercial use.

#### Section 100.21 Implementation of this Regulation

The General Manager/Chief Executive Officer of the Authority is directed to implement this regulation through appropriate executive orders.



## **APPENDIX A**

### **LIST OF BOARD APPROVED ADVERTISING INVENTORY**

#### **A. Buses**

- (1) Queen-size frames
- (2) King-size frames.
- (3) Rear frames
- (4) Exterior Head-liners
- (5) Video monitors
- (6) Partial exterior wraps
- (7) Interior Bus Cards

#### **B. Railcars**

- (1) Interior car cards (21" x 22")
- (2) Interior head-liners
- (3) Video monitors
- (4) Partial exterior wraps

#### **C. Metrorail Stations**

- (1) Dioramas (back-lighted advertising display)
- (2) Two-Sheet Posters (non-backlighted advertising display)
- (3) Station banners

#### **D. Tunnels**

#### **E. Bus Shelters**

**SUBJECT: Revisions to The Regulation Concerning the Use by Others of WMATA Property**

**2004-07  
RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

**WHEREAS, In 1980, the Board adopted Board Resolution #80-19, in which it declared that it would allow the use of WMATA property by others for a limited number of activities, including some commercial activity, but clearly stated its intent to closely monitor/control commercial use; and**

**WHEREAS, In 1987, the Board adopted Board Resolution #87-02, adopting the Regulation Concerning the Use By Others of WMATA Property (the Use Regulation), codifying the policy expressed in Board Resolution #80-19, but allowing some additional activities; and**

**WHEREAS, The Use Regulation provides for the installation of Automated Teller Machines (ATMs) at a limited number of Metrorail stations for a one-year demonstration project, the installation of Computerized Electronic Passenger Information and Advertising Displays on platforms and mezzanines of Metrorail stations, the installation of fiber optic cables, and the installation of public telephone service; and**

**WHEREAS, The Use Regulation prohibits any uses of WMATA property that are not approved therein, and specifically prohibits advertising in or on bus shelters, limits advertising to buses, railcars, and Metrorail stations, and requires Board approval of advertising inventory in these areas; and**

**WHEREAS, The Board has previously amended the Use Regulation to allow WMATA to lease WMATA property for the installation of communications antennas and equipment in addition to fiber optic cables and to allow WMATA to use its parking facilities for revenue-generating uses other than customer parking; and**

**WHEREAS, WMATA is currently facing significant budgetary shortfalls, and Staff has determined that pursuit of initiatives previously prohibited or restricted by the Use Regulation can help cover projected budget shortfalls; and**

**WHEREAS, Staff recommends that the Board adopt revisions to the Use Regulation, attached hereto as Exhibit A, to allow additional revenue-producing activities, and approve as additional advertising inventory train tunnels of Metrorail stations and**

**Motioned by Mrs. Mack, seconded by Mr. Zimmerman, unanimously approved.**

**Ayes: 6 - Mr. Smith, Mr. Kauffman, Mr. Graham, Mrs. Mack, Mr. Zimmerman, and Mr. Trotter**

bus shelters conditional on Staff obtaining the necessary permission from the jurisdictions where the bus shelters are located; and

WHEREAS, Staff also recommends that the Board adopt technical revisions to the Use Regulation that delete free speech provisions that are obsolete, update the criteria for determining the availability of Authority-owned parking facilities for uses other than transit-related parking, and provide a definition for the term "community purpose;" now, therefore, be it

**RESOLVED**, That the Board of Directors adopt the revisions to the Use Regulation, attached hereto as Exhibit A, to allow the following revenue-producing activities:

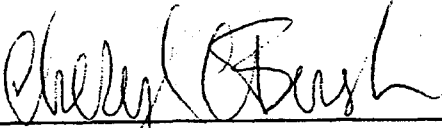
- (1) Advertising on bus shelters conditional on Staff obtaining authorization, when necessary, from the relevant jurisdictions.
- (2) The installation of Automatic Teller Machines in the free areas of Metrorail stations for multi-year contracts.
- (3) The installation of Computerized Electronic Passenger Information and Advertising Displays in Metrorail cars and Metrobuses as well as on Metrorail station platforms and mezzanines; and be it further

**RESOLVED**, That the Board of Directors of the Washington Metropolitan Area Transit Authority specifically expands WMATA advertising inventory to include bus shelters, conditional on Staff obtaining the necessary authorization from the surrounding jurisdictions, and Metrorail station tunnels; and be it further

**RESOLVED**, That the Board of Directors also adopts the technical revisions to the Use Regulation that delete free speech provisions that are obsolete, update the criteria for determining the availability of parking facilities for uses other than transit-related parking, and provide a definition for the term "community purpose;" and be it further

**RESOLVED**, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency.

  
\_\_\_\_\_  
Cheryl C. Burke, General Counsel

PART 100  
REGULATIONS CONCERNING THE  
USE OF WMATA PROPERTY

PREAMBLE

On March 27, 1980, the WMATA Board of Directors adopted Resolution No. 80-19 which detailed the limited use by others of property owned or controlled by WMATA. The Board recognized that WMATA property had been purchased with public funds, that there was a significant demand for the use of the property, and that the Board had a responsibility for the safety of the riding public. The approved activities included certain commercial, transit-related, real property, and first amendment uses such as expressions of political thought and religious belief.

Since the adoption of Resolution No. 80-19, WMATA has been receiving an increasing number of requests from commercial establishments and other interest groups seeking access to WMATA facilities. This proposed regulation has been developed to ensure that WMATA property is used safely, and in furtherance of its dedicated purpose. The regulation will have the affect of binding the Authority to its provisions unless it is later amended at a public session of the Authority's Board of Directors. The intent of the regulation is to make it clear that upon its adoption by the WMATA Board of Directors all WMATA operating and non-operating property shall be preserved for the use to which it was lawfully dedicated; and that the use and activities by the public of WMATA property shall be consistent with that status. The regulation will not permit any discretion on the part of the staff or the Board with respect to the particular activities allowed.

Because advertising in buses, railcars, and Metrorail stations is a source of significant revenue to the Authority, advertising will be allowed in/on buses, bus shelters, railcars and the Metrorail system and stations, *including tunnels*. Bus shelter advertising will be conditional on obtaining the necessary authorizations from the surrounding jurisdictions. ~~Advertising in or on bus shelters is prohibited.~~ In addition to advertising, other revenue producing activities which will be allowed are: filming and photography; automated teller machines; electronic graphics; fiber optics; leasing of excess and future operational property; paid public-telephone service; newspaper vending machines; and incidental, non-transit public use and commercial use of Authority-owned parking facilities. ~~Certain authorized uses of property included in this Regulation have not yet been approved by the Board; they are contained in Section 100.14; Section 100.15; and Section 100.16. Those Sections will become operational after specific approval of those activities by the Board.~~ This regulation excludes from its scope the following uses of Authority property: transit related uses, joint development, and utility activities.

Uses of WMATA property not described in this Regulation or specifically excluded from its

scope are prohibited.

Modifications to this regulation must be made by an affirmative vote of the Authority's Board of Directors at a public session.

## **SUBPART A - GENERAL**

### **Section 100.1 Applicability**

The regulation describes the types of activities that may be conducted on Authority property by non-Authority personnel or by the public. This regulation also establishes criteria under which a permit or contract may be obtained that will enable the requestor to use the property for one of the allowed purposes. This regulation is necessary to preserve the facilities of the Authority for their dedicated purpose, to provide for the safe and efficient operation of the system, and to further the equitable distribution of licenses and contracts to the public for allowable activities.

No person shall be allowed to use WMATA property except:

- WMATA Employees, Officers, and Directors acting within their official capacity. When not acting within their official capacity: employees, officers, and directors of the Authority shall be treated as 'others'.
- Officials, employees, and agents of the signatories to the WMATA Compact (Maryland, Virginia, and the District of Columbia) members of the Washington Metropolitan Area Transit Zone of the District of Columbia, the cities of Alexandria, Falls Church and Fairfax and the counties of Arlington and Fairfax and political subdivisions of the Commonwealth of Virginia located within those counties; and the counties of Montgomery and Prince George's in the State of Maryland and the political subdivisions of the State of Maryland located in those counties; ; and of the U.S. Government while acting on official business as it relates to WMATA facilities.
- Contractors, agents, subcontractors and supplies under contract with WMATA and only with respect to designated physical areas covered by the contract.
- Passengers on the WMATA rail and bus system and other transit-related users.
- Individuals or corporations who by the issuance of a permit or contract pursuant to these regulations are granted limited use Access to Authority property for the purpose of engaging in allowable activities will only be authorized when the safety of Authority employees and transit patrons can be assured. Ingress and egress of patrons accommodated, and normal transportation services operated without disruption. Permits and/or contracts for limited use shall be granted for the following purposes:

Filming/Photography

Advertising on Metrobus and Metrorail systems

Free Speech Activities

Vending of Newspapers

Interim Use of Excess Property

Interim Use of Future Operational Property

Automated Teller Machine

Computerized Electronic Passenger Information and Advertising Displays

Fiber Optic Cables

Public Telephone System

**Commercial Use of Authority-owned parking facilities**

This regulation excludes from its scope of the following uses of Authority property: transit related uses, joint development, and utility activities.

The Authority expressly reserves the right to cancel for a reasonable period of time any permit activity for operational or safety reasons.

## **SUBPART B - PERMIT AND CONTRACT PROCEDURE**

### **Section 100.2 Permits**

(a) Issuance. Subject to the availability of space a permit shall be issued giving the applicant the privilege to conduct a specific allowable activity on the Authority's property. Permits shall be issued at 600 5<sup>th</sup> Street, N.W. during normal business hours of the Office of General Counsel or by mail on a "first-come first-served" basis and shall be limited in duration in accordance with the demand schedule for the selected property. Permits are not transferable. Should the Authority determine that the number of applications for permits exceeds the space available at any location, the Authority shall allocate the remaining available space by a random lottery.

(b) Contents. The permit shall contain the following terms and conditions: the name of the individual or group, number of individuals in group, the activity, time and duration of activity and location of the allowed activity. The permit will also provide that the permittee will be responsible for depositing any trash resulting from free speech activities in appropriate trash containers.

(c) Extensions. The specified duration of the permit will not be extended. The permit holder may file an application for a new permit at any time which shall be issued on a space available, first-come first-served basis. In such a case, the applicant may incorporate by reference any required documentation filed with a previous permit application.

(d) Denial of Permit. An application for a permit for allowable activity will only be denied if a person designated by the Authority signifies that the requested space is unavailable, the proposed activity would cause a safety problem, or the planned activity is prohibited. Such denial will be made promptly. Revocation of a prior permit is a basis for the denial of a subsequent application for a reasonable period of time, not to exceed three months.

(e) Revocation. A permit may be revoked if the permit holder violates the terms and conditions of the permit.

### Section 100.3 Contracts

(a) Issuance. Where a contract is required as specified below, the applicant shall enter into a contract with the Authority concerning the allowed activity.

(b) Contents. The contract shall contain the name of the individual or group, the activity, time and duration of activity, the location of the allowed activity, and indemnification and insurance provisions.

(c) Compliance. Contracts shall be entered into between the Authority and the Applicant in accordance with the Authority's procurement regulations.

### Section 100.4 Indemnification and Insurance

(a) Indemnification. Each applicant who requests to undertake an approved activity on Authority property shall agree to fully indemnify and save harmless the Authority against any and all liability arising out of its activities. The requirement for indemnification shall not be applicable to those individuals exercising First Amendment activities.

(b) Insurance. Prior to commencing activities on Authority property, each applicant who requests to undertake an approved activity on authority property shall provide an acceptable policy of insurance coverage appropriate to the activity in accordance with the established insurance schedule. The requirement for insurance shall not be applicable to those individuals exercising First Amendment activities.

### Section 100.5 Standards of Conduct

(a) Time and Number of Individuals. The allowed activity shall be conducted within the time

period stated in the permit or contract, and with a maximum number of individuals as stated in the permit or contract.

(b) Interference with Transit Riders, the Public, and Other Activities. Even when an activity has been approved, the performance of that activity shall not interfere with the safety of transit riders or the public, the efficient operation of the transit system, or other activities being conducted on Authority property.

#### Section 100.6 Violation of Regulations

(a) Unauthorized Activity. If the Authority determines that any organization or individual is conducting an unauthorized activity on Authority property, the Authority shall so notify the violator and the activity shall be stopped or the violators shall immediately leave the Authority property. Failure to stop the unauthorized activity or to leave the Authority property when so requested shall constitute a trespass and the violators shall be arrested and subject to fine or imprisonment in accordance with local criminal laws and ordinances.

(b) Unauthorized Performance of an Authorized Activity. If the Authority determines that any organization or individual is conducting an authorized activity in an unauthorized manner in violation of these regulations, the permit, or the contract, the Authority 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 the Authority property. Failure to stop the unauthorized performance of the authorized activity when so requested shall constitute a trespass and the violators shall be arrested and subject to fine or imprisonment in accordance with local criminal laws and ordinances.

#### Section 100.7 Definitions

(a) For the purposes of this regulation "advertising" means a printed or electronic media display for the purpose of conveying a message.

(b) For the purposes of this regulation, "automated teller machine" (ATM) means electronic banking equipment which permits patron access to routine banking functions. ~~ATMs will also vend pre-coded Metrorail farecards and/or WMATA flash passes and/or family Tourist passes.~~ **ATMs located on WMATA property will be allowed to display the name, slogan and/or logo of the originating bank/entity.**

(c) For the purposes of this regulation "commercial activity" means any enterprise or venture by groups or individuals for the purpose of promoting or selling products or services to transit patrons or the public.

(d) For the purposes of this regulation, "director" means a member or alternate member of the WMATA Board of Directors.



(e) For the purposes of this regulation, "employee" means any part-time or full-time, temporary or permanent, exempt or non-exempt, represented or non-represented individual including interns who is compensated by the authority for his or her services by wages, salary or other remuneration.

(f) For the purposes of this regulation "excess property" means any real property designated excess by the General Manager following a screening process verifying that there are no construction, operation, maintenance, or transit-related requirements for the property.

(g) For the purposes of this regulation "executive order" means a description of an internal administration procedure which implements WMATA policy or which defines standard operating procedures.

(h) For the purposes of this regulation "free speech activity" means the organized exercise of rights and privileges which deal with political, religious, or social matters and are non-commercial.

(i) For the purposes of this regulation, "joint development use" or "joint development" is defined as the development of WMATA-owned or controlled real property interests at or near mass transit facilities which have significant development potential — including, but not limited to, incidental non-transit, public use of parking spaces and/or commercial or retail use in parking facilities — to achieve close physical integration of transit facilities with commercial/retail, recreational/entertainment, and residential development with the objective of developing transit-oriented development projects that encourage reduced automobile dependency, promote and enhance ridership and patron convenience by providing the opportunity to obtain goods and services near transit stations, and encourage revitalization and growth in communities which WMATA serves.

(j) For the purposes of this regulation, "leaflet" means small printed material unfolded or folded.

(k) For the purposes of this regulation "newspapers" means any publication, intended for general circulation, published regularly or short intervals, and containing information and editorials on current events and news of general interest.

(l) For the purposes of this regulation "not-for-profit" means any activity by a religious, educational, scientific, philanthropic, agricultural, labor, veteran's or fraternal organization or association that is not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual.

(m) For the purposes of this regulation "public service" means the objects and enterprises which specifically serve the needs of the general public or are conducive to the comfort and convenience of the entire community.

(n) For the purposes of this regulation, "space available" means that sufficient square footage is available so that the activity will not adversely affect the safety or security afforded the general

public nor will the activity interfere in the normal operation of the public transportation system.

(o) For the purposes of this regulation, "transit-related use" means: use of Metrorail transportation facilities by (1) Metrobus; (2) transit services operated by or for WMATA Compact member jurisdictions; (3) transit services operated by or for other public agencies; and (4) private providers of transit services to the general public; and activities related to the promotion of the above transit services on WMATA facilities.

(p) For the purposes of this regulation, "computerized electronic passenger information and advertising displays" include, but are not limited to, light emitting diode (LED) displays, video monitors, computer monitors and plasma screens.

(q) Incidental, Non-transit, Public Use of Authority-owned Parking Spaces. For purposes of this regulation "incidental non-transit, public use of Authority-owned parking spaces" is defined as the use of Authority's parking facilities by non-transit or non-transit-related users for parking only.

(r) Commercial Use of Authority-owned Parking Facilities. Commercial use is defined as the use of the Authority's parking facilities for non-parking commercial ventures, such as, office space, and retail ventures (sale of products or services deemed to reduce the travel time of transit users by providing easy access to frequently used/needed products or services). The Authority shall promulgate criteria for selecting commercial/retail services that contribute to transit-oriented development, and on a biennial basis, shall review and update the criteria for selecting such services.

(s) Civic Use of Authority-owned Parking Facilities. Civic use of Authority-owned parking facilities is defined as use of Authority-owned Parking Facilities by municipal, county or state agencies/organizations of the Compact jurisdictions or organizations sponsored or created by municipal, county or state agencies/organizations of the Compact jurisdictions for non-commercial activities that support/serve WMATA Compact jurisdiction communities.

(t) For purposes of this regulation, "community purpose" is defined as any use of WMATA property which provides a benefit to the surrounding neighborhood *or jurisdiction* and/or WMATA customers.

## **SUBPART D - ALLOWABLE ACTIVITIES**

### **Section 100.8 Filming and Photography**

(a) Activities. This section applies to the following activities:

(I) The filming of motion pictures, television commercials, and promotional and educational

films. Television and newspaper press crews of five or fewer individuals and without any "plug-in" equipment are not subject to this regulation.

**(i) Fees**

(1) The fees and charges assessed 'commercial activity' filming will provide for a one-time set-up and ongoing administrative and operational hourly costs plus a 35 (thirty-five) percent margin of overhead.

(2) The fees and charges for 'not-for-profit' filming will be sufficient to cover all one-time and ongoing administrative and operational costs.

(3) A schedule shall provide hourly charges for the use of stations, and necessary administrative, security and operational personnel, and required equipment.

(4) The entire estimated fee to be charged for 'commercial activity' and 'not-for-profit' filming must be paid prior to the scheduled start of filming. Any charge over the estimate will be payable within 30 days of billing.

**(ii) Time of Activity**

Request for filming will be assessed on an individual 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.

**(iii) Permit**

Requests for a permit will be accompanied by scripts and storyboards at least 10 working days prior to the requested filming date. Requests will not be authorized which would suggest to viewers activities that would be in violation of the laws of the signatories, the laws, ordinances, and regulations of the political subdivisions in the transit zone, and the rules and regulations of the Authority.

(II) Still photography that does not require a tripod, special lighting, film crews, models, impair the normal ingress/egress or operation of Authority services and can be accomplished by a hand held camera by one person is not regulated. Requests for photographic access that involve a camera crew of three or less, two pieces of lighting equipment or less, does not involve the use of a tripod, does not require assistance of Authority technical personnel or significantly impair the normal ingress/egress or operations will be allowed. Requests for a permit must be made two working days prior to the requested date of photography. Photography and filming that requires the use of models, special lighting equipment beyond two pieces, tripods, assistance and supervision from Authority staff, crews of more than three, or that impairs ingress/egress or normal system operations shall be governed by section 100.8(a)(i). Television and newspaper press crews of five or fewer individuals and without any "plug-in" equipment are not subject to this regulation.

(i) Fees

The fee charged for each hour of use of the Authority's property shall be in accordance with a schedule established by the Authority. The fee must be paid in advance by cash, certified check or money order. A fee shall not be charged for photography by an individual with a hand held camera for an individual's own use.

(ii) Time of Activity

Requests for photography will be assessed on an individual 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.

(b) Permits and Contracts

(i) Each person who requests and is granted authorization to undertake 'commercial' or 'not-for-profit' filming or photography activity on Authority property shall enter into a contractual agreement with the Authority in accordance with Section 100.3, contracts.

(ii) Each person except as stated in Section 100.8(a) (II) who requests and is granted authorization to undertake still photography or hand held camera filming shall be issued a permit issued by the Authority in accordance with Section 100.2, permits.

(c) Indemnification and Insurance

(i) Each person who requests to undertake 'commercial' or 'not-for-profit' filming on Authority property shall provide a policy of liability insurance and shall agree to indemnify the Authority for any and all liability arising out of its activities pursuant to Section 100.4, Indemnification and Insurance.

(ii) Each person who requests to undertake still photography or hand-held camera filming on Authority property shall not be required to provide a policy of insurance or indemnification.

**Section 100.9 Advertising on Metrobus and Metrorail Systems.**

(a) Activities. This section applies to the following activities.

(1) Advertising on the Authority's Metrobus and Metrorail systems installed in **Authority Board** approved advertising inventory.

(b) Type of Advertising

(1) ~~All advertising on the Authority's property shall reflect a high level of good taste and decency in copy and art.~~ All advertising on the Authority's property shall comply with the applicable advertising guidelines that govern advertising inventory.

(2) All advertising shall be truthful and in compliance with the laws of the signatories; the laws, ordinances, and regulations of the political subdivisions in the transit zone; and the rules and regulations of the Authority.

(3) Advertising which is false or misleading is prohibited.

(4) The use of the Authority's graphics or representations in advertising is subject to the Authority's approval.

(5) The Authority reserves the right to reject or remove any advertising which is in violation of the laws of the signatories; the laws, ordinances and regulations of the political subdivisions in the transit zone; or the terms and conditions of the contractual agreement.

(c) Contract. An advertising franchise shall be established in accordance with the Authority's procurement regulations. The franchisee shall enter into a contract with the Authority in accordance with Section 100.3 contracts.

(d) Indemnification and Insurance. Each person who requests to undertake 'commercial' and 'not-for-profit' advertising on Authority property in accordance with Section 100.7 shall indemnify the Authority for any and all liability arising out of its activities pursuant to Section 100.4, Indemnification and Insurance.

#### Section 100.10. Free Speech Activities

(a) Activities. This section applies to free speech activities as defined in Section 100.7.

~~(b) Permit. [Unenforceable per 893 F.2d 1387 (1990)]~~

~~(c) Modification and Suspension. [Unenforceable per 893 F.2d 1387 (1990)]~~

(d b) Location. Free speech activities are permitted in the free-area - "above ground" of metro stations. All free speech activities are to take place at a distance greater than fifteen (15) feet from any escalator, stairwell, faregate, mezzanine gate, kiosk, or fare card machine. In no instances are any free speech activities to take place in the paid or platform areas of the station, or in the underground portions of stations. No free speech activities may interfere with the pedestrian traffic flow in the usual egress and ingress to the station proper or to the faregate.

~~(e) Number of Individuals. [Unenforceable per 893 F. 2d 1387 (1990)]~~

(f c) Leafleting. The distribution of leaflets in connection with free speech activities is permitted.

(gd) Prohibitions. No individual carrying out free speech activities will carry out any commercial activity. Those carrying out free speech activities will not:

1. distribute food or drink.

2. post any commercial signs, advertisements, circulars, or printed material.
3. Set up any tables or other portable equipment. This prohibition does not apply to official use by local jurisdictions at those stations where the Authority has determined that space is available.
4. Carry any signs or placards that are more than 18" by 18" or are affixed to a pole.
5. Affix any material to any part of the WMATA structure.
6. Permit leaflets or other printed material to be left unattended.

#### **Section 100.11 Vending of Newspapers**

(a) Activities. This section applies to the sale and distribution of newspapers from vending machines at Metrobus terminals and Metrorail stations. Because of safety and fire considerations, human vendors and the chaining of any newspaper vending machines to Authority property is prohibited.

(1) Newspaper vending machines (vendors) may be located where designated by the Authority. At underground Metrorail stations, vendors shall be placed on the underground mezzanine level, i.e., in the free area between the bottom of the first entrance escalator and the fare paying area. At certain underground and surface stations, vendors may be placed at ground level mezzanine or surface exterior locations designated by the Authority pursuant to (3) below. Newspaper vending activities are prohibited on the subway platform area of the stations and on the trains. At designated Metrobus terminals, exterior newspaper vendors may be located where determined by the Authority.

(2) All newspaper vendors whether located in the interior or on the exterior of station property or on the exterior of Metrobus terminals shall be designed in accordance with plans and specifications adopted by the Authority. The Authority shall adopt a uniform design for all interior vendors and a second uniform design for exterior vendors. The design will be in conformance with applicable regulations, and in furtherance of the aesthetic integrity of the property. The total cost of the construction and installation of the machines shall be borne by the vendor owners.

(3) The Authority will conduct a station-by-station survey to determine the amount of space available that may be used for newspaper vending machines. Safety and ingress and egress of passengers will be the principal considerations in evaluating space limitations.

(b) Contract. A Newspaper Vending Agreement shall be executed with the Authority and shall grant to the vendor the non-exclusive right to place newspaper vending machines in designated Metrobus terminals and Metrorail stations for a one year period of time. The number of vendors at each location shall be determined by the availability of space. Selection of vendors shall be made by a station-by-station lottery after the available space is determined by survey. Any one

newspaper may receive a maximum of three vending machine spaces per station through the lottery. Should any space remain available following the lottery, a newspaper may apply for that space and shall not be restricted to a maximum of three machines at that location. Contractual agreements will be granted pursuant to Section 100.3, contracts.

(c) Indemnification and Insurance: The newspaper vendor shall, as part of the contractual agreement, agree to fully indemnify the Authority for any and all liability arising out of the operation of the newspaper vendors and provide a policy of liability insurance pursuant to Section 100.4, Indemnification and Insurance.

#### **Section 100.12 Interim Use of Excess Property**

(a) Activities. This section applies to the use of excess property where final disposition is pending and where the property is not part of the planned operating system. Activities shall be allowed which foster:

- (1) maintenance of properties in a neat and orderly condition,
- (2) non-profit individual and community purposes,
- (3) reduction or avoidance of maintenance costs by the Authority,
- (4) revenues offsetting any administrative costs,
- (5) production of revenues through out-leasing.

(b) Permits and Contracts. Each person who requests and is granted authorization to undertake an approved activity on the Authority's excess property shall be accommodated by a contract pursuant to Section 100.3, contracts, and shall be issued a permit pursuant to Section 100.2, permits.

(c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake an approved activity on the Authority's excess property shall agree to indemnify the Authority for any and all liability arising out of their activities and provide a policy of insurance pursuant to Section 100.4, Indemnification Insurance.

#### **Section 100.13 Interim Use of Future Operational Property**

(a) Activities. This section applies to the interim use of property owned or controlled by the Authority which is temporarily not required but will be needed in the future as part of the operating system. Activities shall be allowed which foster and are consistent with:

- (1) production of revenue in excess of costs for the Authority;

(2) maintenance of properties in a neat and orderly condition.

The following specific uses among others are specifically authorized:

(1) holdover use by former owners or tenants;

(2) out-leases with former owners, or their tenants in possession, or new leases.

(b) Permits and Contracts. Each person who requests and is granted authorization to undertake an approved activity on the Authority's property in accordance with this section shall be accommodated by a contract pursuant to Section 100.3, contracts and shall be issued a permit.

(c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake an approved activity on the Authority's property in accordance with this section shall agree to indemnify the Authority for any and all liability arising out of their activities and provide a policy of insurance pursuant to Section 100.4, Indemnification and Insurance.

#### **Section 100.14 Automatized Teller Machines\***

(a) Activities. This section applies to the ~~placement following activities undertaken for a one-year demonstration~~ of Automatized Teller Machines (ATMs) at ~~New Carrollton, Bethesda, Rosslyn, Metro Center, Potomac Avenue, and Huntington Station~~ Metrorail stations.

(b) Location. The installation of automatized teller machines is only permissible within the free area of the station mezzanine in close proximity to the **station manager's kiosk and the farecard sales area**. The exact location of the ATM will be determined by the Authority.

(c) Contract. An automatized teller machine ~~one-year franchise license~~ shall be established in accordance with the Authority's procurement regulations. The ~~franchisee licensee~~ shall enter into a contract with the Authority in accordance with Section 100.3, contracts.

(d) Indemnification and Insurance. Each ~~person who entity~~ that is granted an ATM ~~franchise license~~ shall indemnify the Authority for any and all liability arising out of its activities pursuant to Section 100.4, Indemnification and Insurance.

~~\*As of January 15, 1987, this activity has not been approved by the WMATA Board of Directors.~~

#### **Section 100.15 Computerized Electronic Passenger Information and Advertising Displays\***

(a) Activities. This section applies to the implementation of Computerized Electronic Passenger Information and Advertising Displays on platforms and in mezzanines of Metrorail stations as well as in **Metrorail cars and Metrobuses**.



The principal function of the system(s) will be to display useful, timely, and accurate ~~Metro~~ **Metro** rail information **Metro service updates and/or news updates** to rail and bus patrons. A secondary function of the hardware will be to allow commercial advertisements to be displayed ~~when the system is not being utilized by the Authority in a manner that does not interfere with the principal function of the equipment.~~ The types of advertising allowed is governed by Section 100, Advertising on Metrobus and Metrorail systems.

(b) Contract. A computerized electronic display contract shall be entered into between the applicant and the Authority pursuant to the Authority's procurement regulations and in accordance with Section 100.3 contracts.

(c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake computerized electronic display advertising shall indemnify the Authority for any and all liability arising out of its activities and provide a policy of liability insurance pursuant to Section 100.4, Indemnification and Insurance.

- ~~As of January 15, 1987, this activity has not been approved by the WMATA Board of Directors.~~

#### Section 100.16 Fiber Optic Cables\*

(a) Activities. Fiber optic cables will be installed along the Authority's rights-of-way service corridors. Any fiber optic cable capacity not required by the Authority may be leased for commercial purposes.

(b) Contract. A fiber optics contract shall be entered into between the applicant and the Authority's procurement regulations, and in accordance with section 100.3. contracts.

(c) Indemnification and Insurance. Each person who is granted a franchise shall indemnify the Authority for any and all liability arising out of its activities and provide a policy of liability insurance pursuant to section 100.4, Indemnification and Insurance.

- ~~As of January 15, 1987, this activity has not been approved by the WMATA Board of Directors.~~

#### Section 100.17 Public Telephone Service

(a) Activities. This section applies to the installation of a public telephone service located in the Metrorail and Metrobus systems. The service shall be provided by either the Authority directly or through contract pursuant to the Authority's procurement regulations and in accordance with Section 100.3. contracts.

#### Section 100.18. Incidental, Non-transit, Public Use of Authority-Owned Parking Spaces

(a) Activity. This section applies to incidental non-transit, public use of Authority-owned parking facilities, as defined in section 100.7., that are normally allocated for use by WMATA rail and bus system patrons and other transit-related users.

(b) Time. Incidental, non-transit, public use of Authority-owned parking facilities may take place only during off-peak and/or non-revenue time periods, or as otherwise approved by the Board of Directors.

(c) Availability: Incidental, non-transit, public use of Authority-owned parking facilities may be available when (i) the Authority deems that the use does not present a safety concern, (ii) there are sufficient remaining parking spaces for transit system patrons and other transit-related users, and (iii) ~~the use is consistent with FTA requirements, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding facilities, such as the WMATA surcharge program agreements.~~ **the use is consistent with FTA requirements, the 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.**

(d) Fees. The appropriate compensation for the use of Authority-owned parking facilities shall be established by the Chief Executive Officer, or his/her designee, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge amount, if any, established for the particular Metrorail station plus an amount sufficient to cover all administrative, operating, and maintenance costs.

#### Section 100.19. Commercial Use of Authority-Owned Parking Facilities

(a) Activity. This section applies to commercial use of Authority-owned parking facilities as defined in section 100.7.

(b) Availability: Commercial use of Authority-owned parking facilities may be available when (i) the Authority determines that the use serves a community purpose, (ii) the Authority deems that the use does not present a safety concern, and allows sufficient remaining parking spaces for passengers of the transit system and other transit-related users; and (iii) ~~the use is consistent with FTA requirements, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding facilities, such as the WMATA surcharge program agreements.~~ **the use is consistent with FTA requirements, the 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.**

(c) Permit. Each entity/person that/who is allowed to sell its products or services or rent space where/when space is available shall enter into a license, lease, or other appropriate agreement which satisfies the requirement of section 100.4 of this regulation concerning indemnification and insurance.

(d) Fees. The appropriate compensation for the use of Authority-owned parking facilities shall be established by the Chief Executive Officer, or his or her designee, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge amount, if any, established for the particular Metrorail station plus an amount sufficient to cover all administrative, operating, and maintenance costs.

#### **Section 100.20. Civic Use of Authority-owned Parking Facilities**

(a) This section applies to civic activities sponsored by municipal, county or state agencies/organizations of the Compact jurisdictions.

(b) Time: Civic use of Authority-owned parking facilities shall take place only during off-peak and/or non-revenue time periods.

(c) Availability: Authority-owned parking facilities may be available for civic activities only when (i) the Authority deems that the use does not present a safety concern, (ii) the use allows sufficient remaining parking spaces for passengers of the transit system and other transit-related users; (iii) the Authority determines that the planned activity serves/supports the surrounding community; and (iv) ~~the use is consistent with FTA requirements, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding facilities, such as the WMATA surcharge program agreements~~ the use is consistent with FTA requirements, the 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.

(d) Permit. Each organization that is allowed to host an activity where/when space is available shall enter into a license, lease, or other appropriate agreement which satisfies the requirement of section 100.4 of this regulation concerning indemnification and insurance.

(e) Fees. The appropriate compensation for the use of Authority-owned parking facilities shall be established by the Chief Executive Officer, or his/her designee, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge amount, if any, established for the particular Metrorail station plus an amount sufficient to cover all administrative, operating, and maintenance costs.

**Section 100.21 Implementation of this Regulation**

**The ~~General Manager~~ Chief Executive Officer** of the Authority is directed to implement this regulation through appropriate executive orders.

**PRESENTED & ADOPTED: October 17, 2002**

**SUBJECT: Amendment to the Regulation Concerning the Use by Others of  
WMATA Property and Amendment to Parking Resolutions # 86-58 and  
#88-61**

**#2002-47  
RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

**WHEREAS,** In 1987, in response to increasing requests from commercial establishments and other interest groups seeking access to WMATA facilities, the Board of Directors adopted Resolution #87-02, approving the Regulation Concerning The Use By Others Of Washington Metropolitan Area Transit Authority Property (hereinafter, "the Use Regulation"); and

**WHEREAS,** In adopting the Use Regulation, the Board desired to accommodate such requests without minimizing its policy concerning safety and efficiency in the operation of the Metrorail system and facilities; and

**WHEREAS,** The Authority receives multiple requests for non-transit and commercial or retail use of WMATA's parking facilities which would not compromise safety and/or the efficient operation of the Metrorail system and/or facilities; and

**WHEREAS,** In response to these increasing requests, the Board of Directors desires to amend the Use Regulation to accommodate such requests when doing so does not compromise safety and/or the efficient operation of the Metrorail system and/or facilities, and complies with the land use plans of the relevant local jurisdiction; and

**WHEREAS,** The Board of Directors also desires to allow such incidental use of WMATA parking facilities to produce additional income for the Authority within the constraints established by the Federal Transit Administration, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding facilities, such as the WMATA surcharge program agreements; and

**WHEREAS,** The Board of Directors has established fees for parking at Metrorail parking facilities in general and specific fees for parking at particular parking facilities, including surcharge fees; and

**WHEREAS,** The Board of Directors believes that it is in the public's interest to allow flexibility in establishing parking fees for incidental, non-transit parking at Metrorail facilities; and

**WHEREAS,** The Board of Directors, therefore, desires to amend Board Resolution # 86-61 (Revised Parking Fee Program) and Board Resolution # 86-58 (Implementation of Non-Metro User Parking Fee) and all specific parking resolutions that establish station-by-station parking fees to now allow the Chief Executive Officer the flexibility to set parking fees or compensation for incidental, non-transit parking at Metrorail parking facilities, which may be collected per capita or pursuant to contractual arrangements, provided that such fees or compensation, at a minimum, cover the surcharge amount, if any, in addition to an amount sufficient to cover all administrative, operating, and maintenance costs; and

**WHEREAS,** The attached proposed amendments to the Use Regulation accomplish these objectives; now, therefore, be it

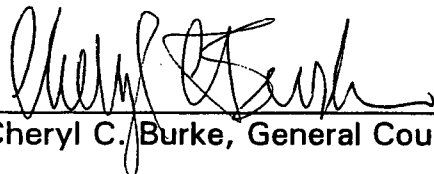
**RESOLVED,** That the Board of Directors of the Washington Metropolitan Area Transit Authority hereby adopts the proposed amendments to the Use Regulation, attached hereto as Exhibit A; and be it further

**RESOLVED,** That any use which does not comply with the local land use plans shall not be permitted under the proposed amendments to the Use Regulation; and be it further

**RESOLVED,** That the Board of Directors of the Washington Metropolitan Area Transit Authority authorizes the Chief Executive Officer, in accordance with Board Resolution #2000-42, which establishes Board approval levels, to use flexibility in establishing fees or compensation pursuant to contractual arrangements for incidental, non-transit parking at Metrorail parking facilities within the constraints established by the Federal Transit Administration, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding of facilities, such as the WMATA surcharge program agreements; and be it further

**RESOLVED,** That this Resolution be effective immediately.

Reviewed as to form and legal sufficiency

  
Cheryl C. Burke, General Counsel

Motion by Mr. Davey, seconded by Mrs. Mack, and unanimously approved.

Ayes: 6 - Mr. Zimmerman, Mr. Barnett, Mr. Kauffman, Mrs. Mack, Mr. Davey and Mr. Nophlin

## EXHIBIT A

I. Amendments to the Definitions section of the Use Regulation (section 100.7) to expand on the definition of "Joint Development" and to add two new terms, "Incidental Non-transit, Public Use of Parking Spaces" and "Commercial and/or Retail Use of Parking Facilities"

### Section 100.7

(i) For the purposes of this regulation, "joint development use" or "joint development" is defined as the development of WMATA-owned or controlled real property interests at or near mass transit facilities which have significant development potential – including, but not limited to, incidental non-transit, public use of parking spaces and/or commercial or retail use in parking facilities – to achieve close physical integration of transit facilities with commercial/retail, recreational/entertainment, and residential development with the objective of developing transit-oriented development projects that encourage reduced automobile dependency, promote and enhance ridership and patron convenience by providing the opportunity to obtain goods and services near transit stations, and encourage revitalization and growth in communities which WMATA serves.

(p) Incidental, Non-transit, Public Use of Authority-owned Parking Spaces. For purposes of this regulation "incidental non-transit, public use of Authority-owned parking spaces" is defined as the use of Authority's parking facilities by non-transit or non-transit-related users for parking only.

(q) Commercial Use of Authority-owned Parking Facilities. Commercial use is defined as the use of the Authority's parking facilities for non-parking commercial ventures, such as, office space, and retail ventures (sale of products or services

deemed to reduce the travel time of transit users by providing easy access to frequently used/needed products or services). The Authority shall promulgate criteria for selecting commercial/retail services that contribute to transit-oriented development, and on a biennial basis, shall review and update the criteria for selecting such services.

(s) **Civic Use of Authority-owned Parking Facilities.** Civic use of Authority-owned parking facilities is defined as use of Authority-owned Parking Facilities by municipal, county or state agencies/organizations of the Compact jurisdictions or organizations sponsored or created by municipal, county or state agencies/organizations of the Compact jurisdictions for non-commercial activities that support/serve WMATA Compact jurisdiction communities.

## II. Designation of New "Allowable Activities"

### Section 100.18. Incidental, Non-transit, Public Use of Authority-Owned Parking Spaces

(a) Activity. This section applies to incidental non-transit, public use of Authority-owned parking facilities, as defined in section 100.7., that are normally allocated for use by WMATA rail and bus system patrons and other transit-related users.

(b) Time. Incidental, non-transit, public use of Authority-owned parking facilities may take place only during off-peak and/or non-revenue time periods, or as otherwise approved by the Board of Directors.

(c) Availability: Incidental, non-transit, public use of Authority-owned parking facilities may be available when (i) the Authority deems that the use does not present a



safety concern, (ii) there are sufficient remaining parking spaces for transit system patrons and other transit-related users, and (iii) the use is consistent with FTA requirements, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding facilities, such as the WMATA surcharge program agreements.

(d) Fees. The appropriate compensation for the use of Authority-owned parking facilities shall be established by the Chief Executive Officer, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge amount, if any, established for the particular Metrorail station plus an amount sufficient to cover all administrative, operating, and maintenance costs.

Section 100.19.     Commercial Use of Authority-Owned Parking Facilities

(a) Activity. This section applies to commercial use of Authority-owned parking facilities as defined in section 100.7.

(b) Availability: Commercial use of Authority-owned parking facilities may be available when (i) the Authority determines that the use serves a community purpose, (ii) the Authority deems that the use does not present a safety concern, and allows sufficient remaining parking spaces for passengers of the transit system and other transit-related users; and (iii) the use is consistent with FTA requirements, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding facilities, such as the WMATA surcharge program agreements.

(c) Permit. Each entity/person that/who is allowed to sell its products or

services or rent space where/when space is available shall enter into a license, lease, or other appropriate agreement which satisfies the requirement of section 100.4 of this regulation concerning indemnification and insurance.

(d) Fees. The appropriate compensation for the use of Authority-owned parking facilities shall be established by the Chief Executive Officer, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge amount, if any, established for the particular Metrorail station plus an amount sufficient to cover all administrative, operating, and maintenance costs.

#### Section 100.20. Civic Use of Authority-owned Parking Facilities

(a) This section applies to civic activities sponsored by municipal, county or state agencies/organizations of the Compact jurisdictions.

(b) Time: Civic use of Authority-owned parking facilities shall take place only during off-peak and/or non-revenue time periods.

(c) Availability: Authority-owned parking facilities may be available for civic activities only when (i) the Authority deems that the use does not present a safety concern, (ii) the use allows sufficient remaining parking spaces for passengers of the transit system and other transit-related users; (iii) the Authority determines that the planned activity serves/supports the surrounding community; and (iv) the use is consistent with FTA requirements, the WMATA 1993 Gross Revenue Transit Bond Resolution, and applicable agreements concerning funding facilities, such as the WMATA surcharge program agreements.

(d) Permit. Each organization that is allowed to host an activity where/when space is available shall enter into a license, lease, or other appropriate agreement which satisfies the requirement of section 100.4 of this regulation concerning indemnification and insurance.

(e) Fees. The appropriate compensation, if any, for the use of Authority-owned parking facilities shall be established by the Chief Executive Officer, and approved in accordance with Board Resolution #2000-42, which establishes Board approval levels, to include, at a minimum, the surcharge amount, if any, established for the particular Metrorail station plus an amount sufficient to cover all administrative, operating, and maintenance costs.

PRESENTED AND ADOPTED: July 27, 1995

SUBJECT: Amend. of Use Reg. to Lease  
Prop. for Comm. Equipment

#95-27  
RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, the Board of Directors on January 15, 1987 adopted Resolution #87-02 setting forth the Regulation Concerning The Use By Others Of Washington Metropolitan Area Transit Authority Property (the "Use Regulation");

WHEREAS, since the adoption of Resolution #87-02, WMATA has received requests from outside organizations to lease WMATA property for the purpose of installing and operating communications antennas and other related equipment;

WHEREAS, while section 100.16 of the Use Regulation allows the leasing of WMATA property for the installation of fiber optic cables, the Use Regulation does not address the leasing of WMATA property for the installation of communications antennas and equipment;

WHEREAS, the leasing of WMATA property for such purposes would generate additional revenues;

WHEREAS, the Board of Directors seeks to amend section 100.16 of the existing Use Regulation to allow for such leasing of WMATA property;

WHEREAS, the attached proposed amendment accomplishes that objective;

NOW, THEREFORE, BE IT RESOLVED, that section 100.16 of the Use Regulation is amended to allow the Authority, with Board approval, to lease property for the installation and operation of communications equipment, in accordance with the attached revision to section 100.16, as amended.

Reviewed as to form and legal sufficiency:



Robert L. Polk  
General Counsel

Motion by Mr. Evans, seconded by Mrs. Mack, and unanimously approved, as amended.  
Ayes: 5 - Mrs. Whipple, Mr. Evans, Mr. Barnett, Mr. Hyland, and Mrs. Mack

Section 100.16      Communications Equipment\*

(a)      Activities.

(1) Fiber optic cables will be installed along the Authority's rights-of-way service corridors. Any fiber optic cable capacity not required by the Authority may be leased for commercial purposes.

(2)      The Authority may, with the approval of the Board of Directors, also lease its property for the installation and operation of communications equipment, including without limitation, antennas and cellular cells, for commercial purposes. Such activity will take place in conformance with all applicable standards established by the American National Standards Institute. Landscaping shall be provided where practicable.

(b)      Contract. A contract shall be entered into between the applicant and the Authority pursuant to the Authority's procurement regulations, and in accordance with section 100.3, Contracts.

(c)      Indemnification and Insurance. Each person who is granted a franchise shall indemnify the Authority for any and all liability pursuant to section 100.4, Indemnification and Insurance.

\* Underlining indicates revised language.

Presented & Adopted: January 15, 1987

SUBJECT: ADOPTION OF REGULATIONS  
USE OF WMATA PROPERTY BY OTHERS

#87-02  
RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, the Board of Directors on September 18, 1986 passed Resolution #86-50 which mandated that a public hearing be held to receive public comments concerning the Proposed Regulation Concerning the Use of WMATA Property; and

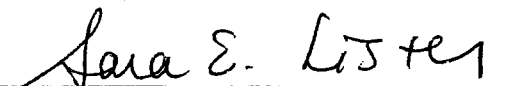
WHEREAS, a public hearing was held on October 29, 1986 where both oral and written comments were received; and

WHEREAS, WMATA staff has reviewed the comments and the Regulation has been modified, where possible, to reflect public concern in keeping with the dedicated purpose of WMATA; and

WHEREAS, the Board of Directors desires to codify certain aspects of its existing policy which was adopted by Resolution #80-19, and to extend that policy to encompass additional activities, and to strengthen its policy concerning safety and efficiency in the operation of the Metro system and facilities; and

WHEREAS, the attached proposed Regulation accomplishes these objectives;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Washington Metropolitan Area Transit Authority hereby adopts the proposed Regulation Concerning the Use of WMATA Property.



General Counsel

Reviewed as to form and legal sufficiency

Motion by Mrs. Mason, seconded by Mrs. Mack, and unanimously approved, as amended.  
Ayes: 6 - Mr. Alexander, Mrs. Mason, Mr. Castaldi, Mrs. Bozman, Mrs. Mack,  
and Mr. Barnett

REGULATION CONCERNING THE USE OF  
WASHINGTON METROPOLITAN AREA  
TRANSIT AUTHORITY PROPERTY

\* \* \* \* \*

PREAMBLE

PART 100

SUBPART A - GENERAL

Section 100.1 Applicability

SUBPART B - PERMIT AND CONTRACT PROCEDURE, STANDARDS  
OF CONDUCT, AND VIOLATION OF REGULATIONS

Section 100.2 Permits

- (a) Issuance
- (b) Contents
- (c) Extensions
- (d) Denial of Permit
- (e) Revocation

Section 100.3 Contracts

- (a) Issuance
- (b) Contents
- (c) Compliance

Section 100.4 Indemnification and Insurance

- (a) Indemnification
- (b) Insurance

Section 100.5 Standards of Conduct

- (a) Time and Number of Individuals
- (b) Interference with Transit Riders, the Public,  
and Other Activities

Section 100.6 Violation of Regulations

- (a) Unauthorized Activity
- (b) Unauthorized Performance of an Authorized  
Activity

## SUBPART C - DEFINITIONS

### Section 100.7 Definitions

- (a) Advertising
- (b) Automatic Teller Machine
- (c) Commercial Activity
- (d) Director
- (e) Employee
- (f) Excess property
- (g) Executive Order
- (h) Free Speech activity
- (i) Joint development use
- (j) Leafletting
- (k) Newspapers
- (l) Not-for-profit
- (m) Public service
- (n) Space available
- (o) Transit-related use

## SUBPART D - ALLOWABLE ACTIVITIES

### Section 100.8 Filming/Photography

- (a) Activities
- (b) Permits and Contracts
- (c) Indemnification and Insurance

### Section 100.9 Advertising on Metrobus and Metrorail systems

- (a) Activities
- (b) Type of Advertising
- (c) Contract
- (d) Indemnification and Insurance

### Section 100.10 Free Speech Activities

- (a) Activities
- (b) Permit
- (c) Modification and suspension
- (d) Location
- (e) Number of Individuals
- (f) Leafletting
- (g) Prohibitions



Section 100.11 Vending of Newspapers

- (a) Activities
- (b) Contract
- (c) Indemnification and Insurance

Section 100.12 Interim use of Excess Property

- (a) Activities
- (b) Permits and Contracts
- (c) Indemnification and Insurance

Section 100.13 Interim Use of Future Operational Property

- (a) Activities
- (b) Permits and Contracts
- (c) Indemnification and Insurance

Section 100.14 Automatic Teller Machines

- (a) Activities
- (b) Location
- (c) Contract
- (d) Indemnification and Insurance

Section 100.15 Computerized Electronic Passenger Information and Advertising Displays

- (a) Activities
- (b) Contract
- (c) Indemnification and Insurance

Section 100.16 Fiber Optic Cables

- (a) Activities
- (b) Contract
- (c) Indemnification and Insurance

Section 100.17 Public Telephone Service

- (a) Activities

Section 100.18 Implementation of this Regulation

PART 100

REGULATIONS CONCERNING THE  
USE OF WMATA PROPERTY

PREAMBLE

On March 27, 1980, the WMATA Board of Directors adopted Resolution No. 80-19 which detailed the limited use by others of property owned or controlled by WMATA. The Board recognized that WMATA property had been purchased with public funds, that there was a significant demand for the use of the property, and that the Board had a responsibility for the safety of the riding public. The approved activities included certain commercial, transit-related, real property, and first amendment uses such as expressions of political thought and religious belief.

Since the adoption of Resolution No. 80-19, WMATA has been receiving an increasing number of requests from commercial establishments and other interest groups seeking access to WMATA facilities. This proposed regulation has been developed to ensure

that WMATA property is used safely, and in furtherance of its dedicated purpose. The regulation will have the affect of binding the Authority to its provisions unless it is later amended at a public session of the Authority's Board of Directors. The intent of the regulation is to make it clear that upon its adoption by the WMATA Board of Directors all WMATA operating and non-operating property shall be preserved for the use to which it was lawfully dedicated; and that the use and activities by the public of WMATA property shall be consistent with that status. The regulation will not permit any discretion on the part of the staff or the Board with respect to the particular activities allowed.

Because advertising in buses, railcars, and Metrorail stations is a source of significant revenue to the Authority, advertising will be allowed. Advertising in or on bus shelters is prohibited. In addition to advertising, other revenue producing activities which will be allowed are: filming and photography; automatic teller machines; electronic graphics; fiber optics; leasing of excess and future operational property; paid public-telephone service; and newspaper vending machines. Certain authorized uses of WMATA property included in this Regulation have not yet been approved by the Board; they are contained in Section 100.14; Section 100.15; and Section 100.16. Those Sections will become operational after specific approval of those activities by the Board. This regulation excludes from its scope the following uses of Authority property: transit related uses, joint development, and utility activities.

Uses of WMATA property not described in this Regulation or specifically excluded from its scope are prohibited.

Modifications to this regulation must be made by an affirmative vote of the Authority's Board of Directors at a public session.

## SUBPART A - GENERAL

### Section 100.1 Applicability

The regulation describes the types of activities that may be conducted on Authority property by non-Authority personnel or by the public. This regulation also establishes criteria under which a permit or contract may be obtained that will enable the requestor to use the property for one of the allowed purposes. This regulation is necessary to preserve the facilities of the Authority for their dedicated purpose, to provide for the safe and efficient operation of the system, and to further the equitable distribution of licenses and contracts to the public for allowable activities.

No person shall be allowed to use WMATA property except:

- I. WMATA Employees, Officers, and Directors acting within their official capacity. When not acting within their official capacity; employees, officers, and directors of the Authority shall be treated as 'others'.
- II. Officials, employees, and agents of the signatories to the WMATA Compact (Maryland, Virginia, and the District of Columbia); members of the Washington Metropolitan Area Transit Zone (the District of Columbia, the cities of Alexandria, Falls Church and

Fairfax and the counties of Arlington and Fairfax and political subdivisions of the Commonwealth of Virginia located within those counties; and the counties of Montgomery and Prince George's in the State of Maryland and the political subdivisions of the State of Maryland located in those counties); and of the U.S. Government while acting on official business as it relates to WMATA facilities.

III. Contractors, agents, subcontractors and suppliers under contract with WMATA and only with respect to designated physical areas covered by the contract.

IV. Passengers on the WMATA rail and bus system and other transit-related users.

V. Individuals or corporations who by the issuance of a permit or contract pursuant to these regulations are granted limited use. Access to Authority property for the purpose of engaging in allowable activities will only be authorized when the safety of Authority employees and transit patrons can be assured, ingress and egress of patrons accommodated, and normal transportation services operated without disruption. Permits and contracts for limited use shall be granted for the following purposes:

- Filming/Photography
- Advertising on Metrobus and Metrorail systems
- Free Speech Activities
- Vending of Newspapers
- Interim Use of Excess Property
- Interim Use of Future Operational Property
- Automatic Teller Machine
- Computerized Electronic Passenger Information and Advertising Displays
- Fiber Optic Cables
- Public Telephone System

This regulation excludes from its scope the following uses of Authority property: transit related uses, joint development, and utility activities.

The Authority expressly reserves the right to cancel for a reasonable period of time any permitted activity for operational or safety reasons.

## SUBPART B - PERMIT AND CONTRACT PROCEDURE

### Section 100.2 Permits

(a) Issuance. Subject to the availability of space a permit shall be issued giving the applicant the privilege to conduct a specific allowable activity on the Authority's property. Permits shall be issued at 600 5th Street, N.W. during normal business hours of the Office of General Counsel or by mail on a "first-come first-served" basis and shall be limited in duration in accordance with the demand schedule for the selected property. Permits are not transferable. Should the Authority determine that the number of applications for permits exceeds the space available at any location, the Authority shall allocate the remaining available space by a random lottery.

(b). Contents. The permit shall contain the following terms and conditions: the name of the individual or group, number of individuals in group, the activity, time and duration of activity and location of the allowed activity. The permit will also provide that the permittee will be responsible for depositing any trash resulting from free speech activities in appropriate trash containers.

(c) Extensions. The specified duration of the permit will not be extended. The permit holder may file an application for a new permit at any time which shall be issued on a space available, first-come first-served basis. In such a case, the applicant may incorporate by reference any required documentation filed with a previous permit application.



(d) Denial of Permit. An application for a permit for allowable activity will only be denied if a person designated by the Authority signifies that the requested space is unavailable, the proposed activity would cause a safety problem, or the planned activity is prohibited. Such denial will be made promptly. Revocation of a prior permit is a basis for the denial of a subsequent application for a reasonable period of time, not to exceed three months.

(e) Revocation. A permit may be revoked if the permit holder violates the terms and conditions of the permit.

### Section 100.3 Contracts

(a) Issuance. Where a contract is required as specified below, the applicant shall enter into a contract with the Authority concerning the allowed activity.

(b) Contents. The contract shall contain the name of the individual or group, the activity, time and duration of activity, the location of the allowed activity, and indemnification and insurance provisions.

(c) Compliance. Contracts shall be entered into between the Authority and the Applicant in accordance with the Authority's procurement regulations.

#### Section 100.4 Indemnification and Insurance

(a) Indemnification. Each applicant who requests to undertake an approved activity on Authority property shall agree to fully indemnify and save harmless the Authority against any and all liability arising out of its activities. The requirement for indemnification shall not be applicable to those individuals exercising First Amendment activities.

(b) Insurance. Prior to commencing activities on Authority property, each applicant who requests to undertake an approved activity on authority property shall provide an acceptable policy of insurance coverage appropriate to the activity in accordance with the established insurance schedule. The requirement for insurance shall not be applicable to those individuals exercising First Amendment activities.

Section 100.5 Standards of Conduct

(a) Time and Number of Individuals. The allowed activity shall be conducted within the time period stated in the permit or contract, and with a maximum number of individuals as stated in the permit or contract.

(b) Interference with Transit Riders, the Public, and Other Activities. Even when an activity has been approved, the performance of that activity shall not interfere with the safety of transit riders or the public, the efficient operation of the transit system, or other activities being conducted on Authority property.

## Section 100.6 Violation of Regulations

(a) Unauthorized Activity. If the Authority determines that any organization or individual is conducting an unauthorized activity on Authority property, the Authority shall so notify the violator and the activity shall be stopped or the violators shall immediately leave the Authority property. Failure to stop the unauthorized activity or to leave the Authority property when so requested shall constitute a trespass and the violators shall be arrested and subject to fine or imprisonment in accordance with local criminal laws and ordinances.

(b) Unauthorized Performance of an Authorized Activity. If the Authority determines that any organization or individual is conducting an authorized activity in an unauthorized manner in violation of these regulations, the permit, or the contract, the Authority 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 the Authority property. Failure to stop the unauthorized performance of the authorized activity when so requested shall constitute a trespass and the violators shall be arrested and subject to fine or imprisonment in accordance with local criminal laws and ordinances.

## Section 100.7 Definitions

(a) For the purposes of this regulation "advertising" means a printed or electronic media display for the purpose of conveying a message.

(b) For the purposes of this regulation, "automatic teller machine" (ATM) means electronic banking equipment which permits patron access to routine banking functions. ATM's will also vend pre-coded Metrorail farecards and/or WMATA flash passes and/or Family Tourist passes.

(c) For the purposes of this regulation "commercial activity" means any enterprise or venture by groups or individuals for the purpose of promoting or selling products or services to transit patrons or the public.

(d) For the purposes of this regulation, "director" means a member or alternate member of the WMATA Board of Directors.

(e) For the purposes of this regulation, "employee" means any part-time or full-time, temporary or permanent, exempt or non-exempt, represented or non-represented individual including interns who is compensated by the authority for his or her services by wages, salary or other remuneration.

(f) For the purposes of this regulation "excess property" means any real property designated excess by the General Manager following a screening process verifying that there are no construction, operation, maintenance, or transit-related requirements for the property.

(g) For the purposes of this regulation "executive order" means a description of an internal administrative procedure which implements WMATA policy or which defines standard operating procedures.

(h) For the purposes of this regulation "free speech activity" means the organized exercise of rights and privileges which deal with political, religious, or social matters and are non-commercial.

(i) For the purposes of this regulation, "joint development use" or "joint development" is defined as the close physical integration of transit facilities with real estate development, and the disposition and/or development of WMATA-owned or controlled real property interests at or near mass transit facilities which have significant development potential.

(j) For the purposes of this regulation "leaflet" means small printed material unfolded or folded.

(k) For the purposes of this regulation "newspapers" means any publication, intended for general circulation, published regularly at

short intervals, and containing information and editorials on current events and news of general interest.

(l) For the purposes of this regulation "not-for-profit" means any activity by a religious, educational, scientific, philanthropic, agricultural, labor, veteran's or fraternal organization or association that is not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual.

(m) For the purposes of this regulation "public service" means the objects and enterprises which specifically serve the needs of the general public or are conducive to the comfort and convenience of the entire community.

(n) For the purposes of this regulation, "space available" means that sufficient square footage is available so that the activity will not adversely affect the safety or security afforded the general public nor will the activity interfere in the normal operation of the public transportation system.

(o) For the purposes of this regulation, "transit-related use" means: use of Metrorail transportation facilities by (1) Metrobus; (2) transit services operated by or for WMATA Compact member jurisdictions; (3) transit services operated by or for other public agencies; and (4) private providers of transit services to the general public; and activities related to the promotion of the above transit services on WMATA facilities.



## SUBPART D - ALLOWABLE ACTIVITIES

### Section 100.8 Filming and Photography

(a) Activities. This section applies to the following activities:

(I) The filming of motion pictures, television commercials, and promotional and educational films. Television and newspaper press crews of five or fewer individuals and without any "plug-in" equipment are not subject to this regulation.

(i) Fees

(1) The fees and charges assessed 'commercial activity' filming will provide for a one-time set-up and ongoing administrative and operational hourly costs plus a 35 (thirty-five) percent margin of overhead.

(2) The fees and charges for 'not-for-profit' filming will be sufficient to cover all one-time and ongoing administrative and operational costs.

(3) A schedule shall provide hourly charges for the use of stations, and necessary administrative, security and operational personnel, and required equipment.

(4) The entire estimated fee to be charged for 'commercial activity' and 'not-for-profit' filming must be paid prior to the scheduled start of filming. Any charge over the estimate will be payable within 30 days of billing.

(ii) Time of Activity

Requests for filming will be assessed on an individual 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.

(iii) Permit

Requests for a permit will be accompanied by scripts and storyboards at least 10 working days prior to the requested filming date. Requests will not be authorized which would suggest to viewers activities that would be in violation of the laws of the signatories, the laws, ordinances, and regulations of the political subdivisions in the transit zone, and the rules and regulations of the Authority.

(II) Still photography that does not require a tripod, special lighting, film crews, models, impair the normal ingress/egress or operation of Authority services and can be accomplished by a hand held camera by one person is not regulated. Requests for photographic access that involve a camera crew of three or less, two pieces of lighting equipment or less, does not involve the use of a tripod, does not require assistance of Authority technical personnel or significantly impair the normal ingress/egress or operations will be allowed. Requests for a permit must be made two working days prior to the requested date of photography. Photography and filming that requires the use of models, special lighting equipment beyond two pieces, tripods, assistance and supervision from Authority staff, crews of more than three, or that impairs ingress/egress or normal system operations shall be governed by section 100.8(a)(i). Television and newspaper press crews of five or fewer individuals and without any "plug-in" equipment are not subject to this regulation.

(i) Fees

The fee charged for each hour of use of the Authority's property shall be in accordance with a schedule established by the Authority. The fee must be paid in advance by cash, certified check or money order. A fee shall not be charged for photography by an individual with a hand held camera for an individual's own use.

(ii) Time of Activity

Requests for photography will be assessed on an individual 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.

(b) Permits and Contracts

(i) Each person who requests and is granted authorization to undertake 'commercial' or 'not-for-profit' filming or photography activity on Authority property shall enter into a contractual agreement with the Authority in accordance with Section 100.3, contracts.

(ii) Each person except as stated in Section 100.8(a)(II) who requests and is granted authorization to undertake still photography or hand held camera filming shall be issued a permit issued by the Authority in accordance with Section 100.2, permits.

(c) Indemnification and Insurance

(i) Each person who requests to undertake 'commercial' or 'not-for-profit' filming on Authority property shall provide a policy of liability insurance and shall agree to indemnify the Authority for any and all liability arising out of its activities pursuant to Section 100.4, Indemnification and Insurance.

(ii) Each person who requests to undertake still photography or hand-held camera filming on Authority property shall not be required to provide a policy of insurance or indemnification.

Section 100.9 Advertising on Metrobus and Metrorail Systems.

(a) Activities. This section applies to the following activities.

(1) Advertising on the Authority's Metrobus and Metrorail systems installed in Authority approved advertising inventory.

(b) Type of Advertising

(1) All advertising on the Authority's property shall reflect a high level of good taste and decency in copy and art.

(2) All advertising shall be truthful and in compliance with the laws of the signatories; the laws, ordinances, and regulations of the political subdivisions in the transit zone; and the rules and regulations of the Authority.

(3) Advertising which is false or misleading is prohibited.

(4) The use of the Authority's graphics or representations in advertising is subject to the Authority's approval.

(5) The Authority reserves the right to reject or remove any advertising which is in violation of the laws of the signatories; the laws, ordinances and regulations of the political subdivisions in the transit zone; or the terms and conditions of the contractual agreement.

(c) Contract. An advertising franchise shall be established in accordance with the Authority's procurement regulations. The franchisee shall enter into a contract with the Authority in accordance with Section 100.3, contracts.

(d) Indemnification and Insurance. Each person who requests to undertake 'commercial' and 'not-for-profit' advertising on Authority property in accordance with Section 100.7 shall indemnify the Authority for any and all liability arising out of its activities pursuant to Section 100.4, Indemnification and Insurance.

(a) Activities. This section applies to free speech activities as defined in Section 100.7.

(b) Permit. All individuals and groups requesting permission to engage in free speech activities on WMATA property must first submit and have approved the permit request in accordance with Section 100.2, permits.

(c) Modification and Suspension. All free speech permits are subject to modification and suspension as a result of or in the event of any emergencies such as snow storms, traffic accidents, power failures, transportation strikes; or on the day of the observance of national holidays; or other conditions which may affect the traffic flow in the area covered by free speech activities creating a dangerous condition or substantially interfering with the general public.

(d) Location. Free speech activities are permitted in the free-area - "above ground" of metro stations. All free speech activities are to take place at a distance greater than fifteen (15) feet from any escalator, stairwell, faregate, mezzanine gate, kiosk, or fare card machine. In no instances are any free speech activities to take place in the paid or platform areas of the station, or in the 'underground' portions of stations. No



free speech activities may interfere with the pedestrian traffic flow in the usual egress and ingress to the station proper or to the faregate.

(e) Number of Individuals. The number of persons permitted to engage in free speech activities at each Metro Station will be designated on a station-by-station basis.

(f) Leafletting. The distribution of leaflets in connection with free speech activities is permitted.

(g) Prohibitions. Free speech activities are to take place in a conversational tone and at no time shall such activities include chanting, dancing, shouting, outcries, or the use of any device for voice amplification or any other sound device including musical instruments.

No individual carrying out free speech activities will carry out any commercial activity. Those carrying out free speech activities will not:

1. distribute food or drink.

2. post any commercial signs, advertisements, circulars, or printed material,
3. set up any tables or other portable equipment. This prohibition does not apply to official use by local jurisdictions at those stations where the Authority has determined that space is available.
4. carry any signs or placards that are more than 18" by 18" or are affixed to a pole,
5. affix any material to any part of the WMATA structure,
6. permit leaflets or other printed material to be left unattended.

## Section 100.11 Vending of Newspapers

(a) Activities. This section applies to the sale and distribution of newspapers from vending machines at Metrobus terminals and Metrorail stations. Because of safety and fire considerations, human vendors and the chaining of any newspaper vending machines to Authority property is prohibited.

(1) Newspaper vending machines (vendors) may be located where designated by the Authority. At underground Metrorail stations, vendors shall be placed on the underground mezzanine level, i.e., in the free area between the bottom of the first entrance escalator and the fare paying area. At certain underground and surface stations, vendors may be placed at ground level mezzanine or surface exterior locations designated by the Authority pursuant to (3) below. Newspaper vending activities are prohibited on the subway platform area of the stations and on the trains. At designated Metrobus terminals, exterior newspaper vendors may be located where determined by the Authority.

(2) All newspaper vendors whether located in the interior or on the exterior of station property or on the exterior of Metrobus terminals shall be designed in accordance with plans and specifications adopted by the Authority. The Authority shall adopt a uniform design for all interior vendors and a second uniform design for exterior vendors. The design will be

in conformance with applicable regulations, and in furtherance of the aesthetic integrity of the property. The total cost of the construction and installation of the machines shall be borne by the vendor owners.

(3) The Authority will conduct a station-by-station survey to determine the amount of space available that may be used for newspaper vending machines. Safety and ingress and egress of passengers will be the principal considerations in evaluating space limitations.

(b) Contract. A Newspaper Vending Agreement shall be executed with the Authority and shall grant to the vendor the non-exclusive right to place newspaper vending machines in designated Metrobus terminals and Metrorail stations for a one year period of time. The number of vendors at each location shall be determined by the availability of space. Selection of vendors shall be made by a station-by-station lottery after the available space is determined by survey. Any one newspaper may receive a maximum of three vending machine spaces per station through the lottery. Should any space remain available following the lottery, a newspaper may apply for that space and shall not be restricted to a maximum of three machines at that location. Contractual agreements will be granted pursuant to Section 100.3, contracts.

(c) Indemnification and Insurance: The newspaper vendor shall, as part of the contractual agreement, agree to fully indemnify the Authority for any and all liability arising out of the operation of the newspaper vendors and provide a policy of liability insurance pursuant to Section 100.4, Indemnification and Insurance.

Section 100.12 Interim Use of Excess Property

(a) Activities. This section applies to the use of excess property where final deposition is pending and where the property is not part of the planned operating system. Activities shall be allowed which foster:

- (1) maintenance of properties in a neat and orderly condition,
- (2) non-profit individual and community purposes,
- (3) reduction or avoidance of maintenance costs by the Authority,
- (4) revenues offsetting any administrative costs,
- (5) production of revenues through out-leasing.

(b) Permits and Contracts. Each person who requests and is granted authorization to undertake an approved activity on the Authority's excess property shall be accommodated by a contract pursuant to Section 100.3, contracts, and shall be issued a permit pursuant to Section 100.2, permits.

(c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake an approved activity on the Authority's excess property shall agree to indemnify the Authority for any and all liability arising out of their activities and provide a policy of insurance pursuant to Section 100.4, Indemnification and Insurance.

Section 100.13 Interim Use of Future Operational Property

(a) Activities. This section applies to the interim use of property owned or controlled by the Authority which is temporarily not required but will be needed in the future as part of the operating system. Activities shall be allowed which foster and are consistent with:

- (1) production of revenue in excess of costs for the Authority;
- (2) maintenance of properties in a neat and orderly condition.

The following specific uses among others are specifically authorized:

- (1) holdover use by former owners or tenants;
- (2) out-leases with former owners, or their tenants in possession, or new leases.

(b) Permits and Contracts. Each person who requests and is granted authorization to undertake an approved activity on the Authority's property in accordance with this section shall be accommodated by a contract pursuant to Section 100.3, contracts and shall be issued a permit pursuant to Section 100.2, permits.



(c) Indemnification and Insurance. Each person who requests and granted authorization to undertake an approved activity on the Authority's property in accordance with this section shall agree to indemnify the Authority for any and all liability arising out of their activities and provide a policy of insurance pursuant to Section 100.4, Indemnification and Insurance.

Section 100.14 Automatic Teller Machines\*

(a) Activities. This section applies to the following activities undertaken for a one-year demonstration of Automatic Teller Machines (ATMs) at New Carrollton, Bethesda, Rosslyn, Metro Center, Potomac Avenue, and Huntington Station.

(b) Location. The installation of automatic teller machines is only permissible within the free area of the station mezzanine in close proximity to the farecard sales area. The exact location of the ATM will be determined by the Authority.

(c) Contract. An automatic teller machine one year franchise shall be established in accordance with the Authority's procurement regulations. The franchisee shall enter into a contract with the Authority in accordance with Section 100.3, contracts.

(d) Indemnification and Insurance. Each person who is granted an ATM franchise shall indemnify the Authority for any and all liability arising out of its activities pursuant to Section 100.4, Indemnification and Insurance.

\* As of January 15, 1987, this activity has not been approved by the WMATA Board of Directors.

Section 100.15 Computerized Electronic Passenger Information and Advertising Displays\*

(a) Activities. This section applies to the implementation of a Computerized Electronic Passenger Information and Advertising Display system on platforms and in mezzanines of Metrorail stations. The principal function of the system will be to display useful, timely, and accurate Metrorail information to rail patrons. A secondary function of the hardware will be to allow commercial advertisements to be displayed when the system is not being utilized by the Authority. The types of advertising allowed is governed by Section 100, Advertising on Metrobus and Metrorail systems.

(b) Contract. A computerized electronic display contract shall be entered into between the applicant and the Authority pursuant to the Authority's procurement regulations and in accordance with Section 100.3, contracts.

(c) Indemnification and Insurance. Each person who requests and is granted authorization to undertake computerized electronic display advertising shall indemnify the Authority for any and all liability arising out of its activities and provide a policy of liability insurance pursuant to Section 100.4, Indemnification and Insurance.

\* As of January 15, 1987, this activity has not been approved by the WMATA Board of Directors.

## Section 100.16 Fiber Optic Cables\*

(a) Activities. Fiber optic cables will be installed along the Authority's rights-of-way service corridors. Any fiber optic cable capacity not required by the Authority may be leased for commercial purposes.

(b) Contract. A fiber optics contract shall be entered into between the applicant and the Authority pursuant to the Authority's procurement regulations, and in accordance with section 100.3, contracts.

(c) Indemnification and Insurance. Each person who is granted a franchise shall indemnify the Authority for any and all liability arising out of its activities and provide a policy of liability insurance pursuant to section 100.4, Indemnification and Insurance.

\* As of January 15, 1987, this activity has not been approved by the WMATA Board of Directors.

## Section 100.17 Public Telephone Service

(a) Activities. This section applies to the installation of a public telephone service located in the Metrorail and Metrobus systems. The service shall be provided by either the Authority directly or through contract pursuant to the Authority's procurement regulations and in accordance with Section 100.3, contracts.

Section 100.18 Implementation of this Regulation

The General Manager of the Authority is directed to implement this regulation through appropriate executive orders.

PRESENTED & ADOPTED: MARCH 27, 1980  
SUBJECT: POLICY ON USE OF WMATA PROPERTY BY OTHERS

#80-19  
RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, property has been purchased by WMATA with public funds and at times through the exercise of eminent domain because said property was found to be necessary and useful for the provision of public transportation service; and

WHEREAS, requests and demands for an occasional attempts to commandeer use of property owned or controlled by WMATA have been occurring with increased frequency as Metro expands and as total transit ridership increases; and

WHEREAS, transit customers constitute a highly desirable captive market for whom the Authority bears responsibility for maintaining an acceptable environment during their periods of transit use; and

WHEREAS, exercise of rights on WMATA property as guaranteed under the First Amendment to the U.S. Constitution must be regulated in a reasonable manner so as to assure the safety and security of all patrons, and

WHEREAS, activities other than those covered by the First Amendment should be controlled by the Board of Directors insofar as is practicable to assure maximum participation of the citizens representatives through the policy making responsibilities of the Board;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby declares that activities by others involving use of property owned or controlled by WMATA should be limited, consistent with First Amendment safeguards, to

- (a) only those commercial activities already expressly permitted by the Board and only such others as may be authorized by vote of the Board;
- (b) only those transportation-related activities which are formally placed under contract pursuant to staff negotiation and submitted to the Board for review and/or action as appropriate under WMATA contracting procedures, and
- (c) only those real property activities for which the Board has already expressly delegated authority to staff as outlined in the Real Estate Policies and Procedures Manual; and
- (d) only those free press and free speech activities which are consistent with the First Amendment and with reasonable regulation for the well being of the general public;

BE IT FURTHER RESOLVED that the guidelines affixed hereto at Attachments A, A-1 through A-6, B, B-1 through B-3 will be followed by staff in implementing this policy to assure that WMATA property purchased with public funds is devoted to the greatest extent to public benefit and use. In the implementation of these guidelines the General Manager will make such delegations of responsibility and authority as he deems appropriate; and

BE IT FURTHER RESOLVED that any approval action taken by the General Manager prior to Board review or approval under authority of these guidelines, other than those covered by the First Amendment to the U.S. Constitution, may be stayed by any member jurisdiction, acting alone, and the matter referred to the Board of Directors for final disposition.

Motion by Mr. Alexander, seconded by Mr. Barnett, and unanimously approved.

Ayes: 6 - Mr. Barnett, Mr. Alexander, Rev. Moore, Mr. Francois, Mrs. Grotos & Mr. Schneider