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## **RULES OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT PERTAINING TO USE OF DISTRICT FACILITIES FOR EXPRESSIVE ACTIVITIES**

The primary purpose of the San Francisco Bay Area Rapid Transit District (BART) is to provide, safe, secure, efficient, reliable, and clean transportation services to its passengers. In furtherance of its function as a provider of public transportation, the District intends that its property and facilities be used for public transit related activities. The District's transportation interests include maintaining and ensuring safe and secure transit properties consistent with its security readiness policies and procedures; preventing delays and inconvenience to passengers by minimizing congestion and expediting their entering and exiting BART Stations and their boarding, transferring, and de-boarding of BART trains; and reducing litter pick-up and other maintenance and administrative expenses so as to maximize public transit services.

To prevent interference and obstruction with the District's primary transportation responsibilities and to protect its facilities, while at the same time accommodating expressive activities that are constitutionally protected by the First Amendment to the United States Constitution and the Liberty of Speech Clause of the California Constitution (expressive activity), the District has made available certain areas of its property for expressive activity and has instituted the following Rules.

These Rules do not govern concessions for the sale of goods or services, or for the distribution of newspapers, or the issuance of special event permits involving the use of BART Station parking lots, which are subject to separate policies and permits. Contact BART's Right-Of-Way Management Division, (510) 464-6882, for more information.

1. **Paid Areas of BART Stations.** The "Paid Areas" of BART Stations (where access is available only to ticketed passengers) shall be reserved for ticketed passengers who are boarding, exiting or waiting for BART cars and trains, or for authorized BART personnel. No person shall conduct or participate in assemblies or demonstrations, distribute written pamphlets or other materials, gather petition signatures or register voters, or engage in other expressive activities in the Paid Areas of BART Stations, including BART cars and trains and BART Station platforms.
2. **Free Areas of BART Stations.** The "Free Areas" of BART Stations (where access is available to the general public) shall be open for expressive activity, which is otherwise lawful, upon issuance of a permit by BART subject to these Rules.
3. **Permit Application.** A Permit Application shall be submitted and received by the Department of Media and Public Affairs at least seven (7) calendar days, but no more than thirty (30) calendar days, prior to the date of the proposed activity. The Permit Application shall include (1) the preferred Station location of the proposed activity; (2) the proposed activity; (3) the preferred date and time of the proposed activity; and (4) the approximate number of persons who will participate in the activity.

No later than two business days (Monday through Friday, 8:30 A.M. to 5:00 P.M., excluding BART holidays) before a proposed activity for which a fully completed permit application has been filed, the Department of Media and Public Affairs shall issue or deny the requested permit. The Department of Media and Public Affairs may deny a permit application only on one or more of the following grounds:

- (a) The application is not timely, fully completed and executed;
- (b) The applicant or the person on whose behalf the application is made has on prior occasions damaged BART's property and has not paid in full for such damage;
- (c) A fully executed prior permit application for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular Station location identified in the subsequent application;
- (d) The use or activity intended by the applicant would present an unreasonable danger to the safety of the applicant, passengers using BART, BART employees or the general public;
- (e) The use or activity intended by the applicant would interfere with the access of BART passengers to a BART Station or train including interrupting the flow of passengers, diverting foot traffic, delaying passengers or otherwise disrupt or create an obstruction of the orderly functioning of BART's transportation services; or
- (f) The applicant or the person on whose behalf the application is made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant.

Notice of denial of a permit application shall set forth the grounds for denial.

- 4. Permits. Permits to engage in expressive activity shall be valid for a specific Station location, date and time period, not to exceed four (4) weeks. In issuing a permit, the Department of Media and Public Affairs may impose reasonable time, place and manner conditions necessary to prevent interference with the District's transportation services. The Department of Media and Public Affairs will consider safety and security issues pertaining to the activity, including the availability of appropriate safety and security personnel, in determining the reasonable time, place and manner conditions that will be imposed on the permit. Such conditions may include:
  - (a) Specification of the time and duration of such activity;
  - (b) Specification of the location of such activity;
  - (c) Limitations on the number of persons who may participate in the proposed activity; and
  - (d) Prohibitions or restrictions on the use of containers (including, without limitation, bags, suitcases, cartons or packages) or the use of tables and chairs.

In addition, each permit shall include and be subject to the prohibitions set forth in Section 5, below.

Persons issued a permit will be required to have it on their person or with their group when engaged in their activity. At the request of a BART Station Agent, BART Transportation Supervisor, Office of External Affairs staff member, or BART Police Officer, persons or

groups engaged in expressive activities must produce a valid permit for the date, time period and BART Station location of the expressive activity.

5. Prohibited Activities. No person, while engaging in any activity for which a permit has been issued, shall: (1) interfere with the smooth flow of passengers through entrances or exits or other areas of BART Stations; (2) interfere with the access onto or off of an escalator, stairway or elevator; (3) interfere with access to or from any faregate, ticket or automatic fare collection machine; (4) interfere with any BART authorized commercial activity or concession; (5) interfere with BART employees' conduct of their business; (6) interfere with access to any fire safety system component, public telephone, information board or news vending machine or kiosk; (7) post or affix to BART property or facilities, or to vehicles on BART property or facilities, any signs, leaflets, posters, flyers, pamphlets, brochures and written, pictorial or graphic material of any kind, or structures, banners and any other paraphernalia; (8) use a sound amplification device (Penal Code section 640); (9) disturb the peace (Penal Code section 415), or disturb others by engaging in boisterous or unruly behavior (Penal Code section 640); (10) willfully block the free movement of another person (Penal Code section 640) ; or (11) violate any applicable law including but not limited to Penal Code section 602.7 prohibiting the sale of goods, merchandise or services without written consent of BART. Any prohibited conduct mentioned above shall be sufficient cause for cancellation of the permit by BART.
6. Clean-up Required. Any person who is allowed to engage in expressive activity authorized under the terms of these Rules shall be responsible for removal of all written materials and other property and clean-up of the areas where the activity was conducted. No such materials or property shall be left behind or stored at BART Stations or facilities.
7. Responsibility for Damage or Injury. Any person who is allowed to engage in expressive activity authorized under the terms of these Rules shall be responsible for any damage or injury arising out of that activity.
8. Activity at own risk. Any person who is allowed to engage in expressive activity authorized under the terms of these Rules shall do so at his or her own risk. BART does not guarantee additional security or safety or privileges by issuing a permit under these Rules.
9. Temporary closures. Notwithstanding these Rules, BART shall have the authority to temporarily close access to areas otherwise open to expressive activity as deemed necessary under specific or unusual circumstances, such as during construction, special events, or in response to a threat to safety and security.
10. Assignment. The permit issued under these Rules shall not be assigned, and any attempt to do so shall be void.
11. Severability. If any provision of these Rules is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

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