

Permit Requirements

Article IV. Public Communication Activities

– from *Washington State Transit Insurance Pool (WSTIP)*

A. Purpose and Scope

1. Non-Public Forum

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

2. WTA's Legitimate Interests

Most public communication activities are prohibited on WTA vehicles and within or upon WTA facilities and properties regardless of the viewpoint expressed, because they are incompatible with WTA's legitimate interests. These legitimate interests include, but are not limited, to the following:

- (a) securing the use of scarce parking spaces and bus shelter space for persons who are using public transportation services;
- (b) maintaining safe, clean, and secure transit vehicles, facilities, and properties to retain existing, and attract new, users of public transportation services;
- (c) reducing litter pick-up and other maintenance or administrative expenses so as to maximize the provision of public transportation services; and
- (d) preventing delays and inconvenience to the general public by minimizing congestion and expediting boarding, transferring, and alighting from WTA vehicles.

3. Purpose of Article IV and WTA Vehicles, Facilities, and Properties

WTA vehicles, facilities, and properties are first and foremost intended for WTA public transportation services and the use of those services by the general public. Safe and efficient movement of WTA vehicles and customers within and upon facilities and properties is paramount to achieving safety, security, maintenance, and operation objectives and meeting general public expectations concerning the WTA's provision of public transportation services. WTA's intent and desire is to allow members of the general public to engage in public communication activities on WTA vehicles or within or upon WTA's facilities and properties to the extent that such activities are compatible with WTA's legitimate proprietary functions and interests.

Accordingly, WTA is, within reasonable limits, authorized to regulate the time, place, and manner in which persons engage in public communication activities. Without regard to content, individuals, or groups involved, some activities might be denied altogether, made subject to the Rules of Conduct, or limited by scope, location, or duration. Such activities would include, but are not necessarily limited to, those that are inconsistent with the intended purpose of a given area; pose safety or security risks; interfere with or impinge on the rights of others; impede the free flow of the general public; affect the orderly and efficient use of transit vehicles, facilities, or properties; or otherwise interfere with WTA's public transportation services, operations, or maintenance activities.

WTA expressly does not hereby designate its transit vehicles, facilities, or properties as public forums. It is the purpose of Article IV to describe the limited extent to which the general public is allowed to engage in public communication activities on WTA vehicles and within or upon WTA facilities and properties.

Article IV does not apply to WTA employees engaged in authorized activities in the course of their employment or to events or commercial activities previously authorized by WTA.

4. Facilities Governed by Article IV

All WTA vehicles, facilities, and properties are governed by Article IV herein.

B. Regulation of Public Communication Activities

1. Limitations

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

- (a) Posting or affixing flyers, pamphlets, brochures, leaflets, or any other written, printed, or graphic materials of any kind is prohibited.
- (b) Soliciting funds is prohibited.
- (c) Signs, banners, structures, or other paraphernalia may not be affixed to or erected on Transit Agency vehicles or within or upon Transit Agency facilities or properties, except as authorized by Transit Agency or law.
- (d) Signs carried by or on a person are permitted, provided that the signs are not constructed of a size or material that could inadvertently or intentionally cause injury to a person or property, and provided that the signs are not permitted on Transit Agency vehicles. Signs may not be of a size that obstructs the free flow of the general public and may not exceed 32 inches by 32 inches. A "sandwich board" sign may not extend beyond the carrier's shoulders or, if used by a Permittee, beyond the permitted area.

- (e) Public communication activities will not be permitted in parking areas or roadways. Public communication activities may not block any loading zone, signage, stairway, escalator, elevator, customer service counter, ticket or automatic teller machine, authorized commercial activity, fire safety system component, telephone, information board, or the normal general public paths to and from such areas.
- (f) Public communication activities otherwise permitted under Article IV are prohibited if the number of person engaged in the activities, their location, or the manner of conducting the activities creates safety or security problems; interferes with the free flow of persons onto Transit Agency vehicles or into, within, or from Transit Agency facilities or properties; or interferes with the operation of such transit vehicles, facilities, or properties, or Transit Agency's provision of public transportation services.
- (g) Persons engaged in public communication activities within or upon Transit Agency facilities and properties shall not use any parking spaces provided at such facilities or properties unless they are also using Transit Agency's public transportation services.

2. Revocation of Permit

A Permit may be revoked immediately by WTA's Director of Operations or his or her designee, when evidence exists that:

- (a) A Permittee has violated the provisions of the Permit or these Rules of Conduct, or
- (b) Soliciting funds is prohibited.

3. Notice of Revocation

- (a) Notice of revocation shall be in writing, supported by a statement of facts and a list of witnesses to the facts stated, and be personally served upon the Permittee or mailed to the Permittee. A notice of revocation need not be in writing if immediate conditions exist that pose safety or security risks; interfere with or impinge on the rights of others; impede the free flow of the general public; affect the orderly and efficient use of the transit facility; or otherwise interfere with WTA's public transportation services, operations, or maintenance activities. If written notice of revocation is not given because of such immediate conditions, the WTA Director of Operations or his or her designee shall, within three calendar days from the date of revocation, prepare a written notice of revocation as required above.
- (b) Once a Permit has been revoked, a person shall not continue their activity until another Permit has been obtained or the revoked Permit returned. If the Permit has been revoked on a permanent basis, all materials involved in the terminated activity must be removed immediately by the individual(s) involved.

4. Appeal from Denial or Revocation

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

5. Availability of and Limit Upon Permits

- (a) Permits will be issued on a first-come, first-served basis, subject to availability, provided that WTA may give preference to an applicant or applicants who have had the least opportunity during the preceding 30 calendar days to conduct public communication activities. Permits shall be issued without regard to the identity of the person or cause for which the Permit is being requested.
- (b) For safety and security reasons; to ensure that the free flow of the general public and the intended transportation functions of the transit vehicles, facilities, and properties are met; and to accommodate other activities competing for the limited available space; a maximum of four (4) individuals representing the same groups or causes will be allowed to engage in public communication activities at any given time.

6. Transferability

Upon written approval by WTA's Director of Operations, a Permit may be transferred to another person engaged in the same activity, provided that the receiving party complies with the conditions of the Permit and retains it on his or her person during the activity.

7. Reproduction

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

8. Signs, Banners, Literature, Etc.

Signs, banner, literature, leaflets, posters, structures, or other paraphernalia may not be affixed to the WTA vehicles, facilities, or properties or erected in conjunction with an activity, unless space has otherwise been provided for such purpose or under provision stated elsewhere in these rules and procedures. Permittees may offer literature to the general public, but they shall refrain from attempting to distribute literature to any member of the general public who indicates he or she does not desire to receive said literature. Permittees may not distribute or offer to distribute said literature within ten (10) feet of persons in queue lines, bus exits or entrances, or permanent waiting fixtures, unless invited closer by a transit patron.

9. Responsibility for Clean-up

Permittees shall be responsible for cleaning up litter that they personally (or as a group) generate in the course of their activity. If, at the end of the Permittee's activity, the Permittee fails to clean up such litter, WTA shall cause the clean-up of the Permittee's litter and the Permittee shall reimburse WTA for all costs incurred therefore.

10. Unattended Distribution and Storage of Materials

No Permittee shall leave unattended distribution or storage of materials, placards, boxes, or other supplies used in support of public communication activities.

11. Hold Harmless

Any Permittee, including Permittee's personal representatives, successors in interest, and assigns, shall, as a precondition to the issuance of any Permit, agree to indemnify, defend and hold harmless WTA and its officers, agents, and employees from all suits, claims, actions, and damages of whatsoever kind or nature arising out of or resulting from Permittee's use of the premises, except to the extent caused by the negligence of WTA and its officers, agents, and employees. Any Permittee shall further covenant and agree to specifically assume potential liability for actions brought by Permittee's own employees against WTA and its officers, agents, and employees and, for that purpose only, Permittee specifically waives any immunity under workers' compensation act, Title 51 RCW, provided, however, that said waiver shall not apply to such actions in which Permittee's employee alleges that the claim arises through no fault of Permittee, unless the fault of Permittee is established through discovery or at trial.

12. Interaction with the General Public

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

13. Compliance with the Rules of Conduct and Laws

Permittees shall abide by the Rules of Conduct and all applicable federal, state, and municipal criminal and civil laws.

C. General

1. Liability for Clean-up

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

2. Liability of WTA

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