

**Austin-Bergstrom International Airport
City of Austin Department of Aviation**

**Rules
Solicitation/Display/Demonstration**

I. AUTHORITY AND PURPOSE

1. These rules are adopted by the City of Austin Department of Aviation pursuant to Section 17-2-21 of the Austin City Code of 1991, that states in pertinent part as follows:

“Except as authorized by the Director, it shall be unlawful for any person to engage in the following on airport property:

 - (C) to post, distribute or circulate leaflets, advertisements or other written matter;
 - (D) To solicit funds, contributions, alms or donations;
 - (E) To demonstrate, picket or hold a public gathering or a public meeting;”
2. Austin-Bergstrom International Airport is owned and operated by the City to facilitate the safe and convenient air transportation of passengers and cargo to and from Austin and its neighboring communities. Neither the Airport nor the Airport Terminal is designed or intended for use as a public forum. The Airport and Airport Terminal are hereby declared not to be a public forum, and no use of the Airport or Airport Terminal hereunder shall cause the Airport or the Airport Terminal to be deemed to be a public forum.
3. The purpose of this policy is to establish guidelines under which the Department of Aviation, acting through its Director, or designee, shall enforce Section 17-2-21 of the Austin City Code, and consider applications for a permit from persons who seek to engage in the activities referred to in subsections (C), (D) and (E) on Airport property. This policy is intended to enhance the safety and security of Airport Users and the safe, orderly and efficient operation of the Airport, and to minimize disruption of travel, congestion, and the potential for duress and fraud on Airport Users and Airport tenants, that may result from unregulated subsection (C), (D) and (E) activities.

II. DEFINITIONS

1. Airport – The City of Austin Austin-Bergstrom International Airport.
2. Airport User – Any person using or patronizing the Airport or any authorized service or business at the Airport, and includes, without limitation, travelers, persons meeting, greeting, or transporting travelers, and the officers and employees of the City, Airport tenants and contractors.
3. Applicant – A person applying for a Permit to engage in an Expressive Activity at the Airport.
4. City – The City of Austin, a Texas home-rule municipal corporation.
5. Department – The City of Austin Department of Aviation.
6. Department Official – The officer of the Department designated by the Director to administer this policy.
7. Director – The Director of the City of Austin Department of Aviation.
8. Expressive Activity - An activity described in Subsections (C), (D) or (E) of Section 17-2-21 of the Austin City Code.
9. Permit – A written authorization to engage in an Expressive Activity on the Airport.

10. Permit Holder – An Applicant who has been granted a Permit.
11. Premises – That portion of the Airport or Airport Terminal on which a Permit Holder has been granted a Permit to conduct Expressive Activities.
12. Solicit – Any oral or written request for (a) the donation of money, goods, property, services, or other thing of value, (b) the pledge or future donation of money, goods, property, services, or other thing of value, or (c) the sale or offering for sale of any goods, services or property upon the representation, expressed or implied, that the proceeds will be used for charitable, religious, or other non-commercial purposes.

III. POLICY

1. A person may not engage in an Expressive Activity on any portion of the Airport, including, but not limited to, the Airport Terminal, unless that person completes a Permit application for the Expressive Activity in the form adopted by the Director for such purpose, and the application is approved by the Department Official or Director.
2. Applications for a Permit shall be submitted to the Department Official at least ten working (10) days in advance. The Director may waive the ten working day advance filing requirement upon written request for good cause shown. Permit applications shall be considered in a fair, impartial, and content-neutral manner, and processed on first-come, first-served basis, subject to availability of space. If a Permit application is denied, the Applicant shall be informed of the grounds for denial. Grounds for denial of a Permit application shall include:
 - a. Failure of the Applicant to file a complete and accurate application, or to supplement upon request the application with additional information reasonably required by the Department to consider the application;
 - b. The making of any false statement or misrepresentation in the application, or the failure to disclose any material fact, which if disclosed, would be grounds for denial of the application;
 - c. The failure of the Applicant to pay outstanding damage claims arising out of prior Permits, or to provide security deposits, surety bonds, or liability insurance, if required.
 - d. Lack of available space;
 - e. Conduct of the Expressive Activity would adversely affect the safe, orderly and efficient operation of the Airport, disrupt travel, impair Airport security, or materially increase congestion at the Airport.
 - f. Preservation of public health and safety;
 - g. Interference with flight operations at the airport;
 - h. Compliance with applicable Federal, State or local laws, statutes, ordinances, rules and regulations governing operation of the Airport, including, but not limited to, Federal Aviation Regulations and Transportation Security Regulations;
 - i. Construction, repair or maintenance activities at the Airport;
 - j. An airport emergency;
 - k. The termination of a prior Permit by the Applicant within the previous six months for failure of the Permit Holder to comply with Permit conditions.

3. Due to space and design limitations of the Airport and the Airport Terminal, it is necessary to limit the duration and location of Expressive Activities, as follows:
 - a. The term of a Permit shall not exceed two weeks. A Permit Holder may apply for a new Permit upon expiration of an existing Permit. If there are multiple Applicants for the same period of time, the Permit may be limited to specified hours of the day.
 - b. The Director shall establish areas of the Airport and Airport Terminal in which the conduct of Expressive Activities may be authorized. Such areas shall be depicted in one or more maps or drawings of the Airport and Airport Terminal that shall be available for public inspection at the Department of Aviation offices. A copy of such maps or drawings shall be provided to Applicants.
 - c. Each Permit granted under this Policy shall designate the Premises on which the Permit Holder may engage in Expressive Activities. Permit Holders may engage in Expressive Activities only in the Premise(s) designated in their Permit.
 - d. An Applicant shall apply only for those periods of time for which it reasonably expects to actually conduct Expressive Activities at the Airport. For example, if an Applicant intends to conduct Expressive Activities on Tuesdays and Wednesdays in a two-week period, the Applicant shall apply for the four days only, and may not apply for the entire two week period. Similarly, if an Applicant intends only to conduct Expressive Activities in the morning, it shall apply only for the morning hours, and not for the entire day. The Applicant shall clearly indicate on its Application, the dates and times during which it seeks to conduct its Expressive Activities. If the Department Official determines that a Permit Holder applied for and has been granted a Permit for a materially greater period of time than the Permit Holder is actually using, the Director or Department Official may, upon written notice to the Permit Holder, unilaterally modify the Permit to restrict the permitted use of the Premises to conform to the Permit Holder's actual practices. A determination by the Department Official under this subsection is subject to appeal to the Director.
 - e. Unless otherwise expressly authorized in a Permit, no more than four (4) persons may engage in an Expressive Activity on behalf of the Permit Holder at any one time at an indoor location, and no more than eight (8) persons may engage in an Expressive Activity on behalf of the Permit Holder at an outdoor location.
3. A Permit may be terminated upon notice to the Permit Holder upon the occurrence of any of the following:
 - a. The making of any material false statement or misrepresentation, or the failure to disclose material information, in the application for a Permit.
 - b. Failure of the Permit Holder to comply with the terms of the Permit and this policy, and such violation is not promptly cured upon notice from the City; provided, however, no prior notice and opportunity to cure shall be required if the nature of the violation presents an immediate danger to public health or safety, or interferes with airport security, or airport or flight operations.
 - c. Natural disaster, acts of God, unanticipated damage or destruction to Airport property, Airport emergency, requirements of law, rules, regulations (including, but not limited to Federal Aviation Regulations and Transportation Security Regulations), an order of a court or regulatory agency having jurisdiction, or other cause not within the control of the City.

If a Permit is terminated under section 3.a. or 3.b., the Department Official shall not approve another Permit application by the Permit Holder for a period of six months. Upon termination of a Permit, the Permit Holder shall immediately leave the Airport together with all of its personal property.

4. The denial or termination of a Permit by the Department Official may be appealed to the Director. Appeals shall be in writing and must be submitted to the Director within five days of the date of denial or termination.
5. Unless otherwise expressly agreed by the Director in writing, all Permits shall be subject to the following conditions:
 - a. Expressive Activities shall be limited to the Premises designated in the Permit.
 - b. A Permit Holder shall not solicit any Airport User.
 - c. A Permit Holder shall not walk through the Airport Terminal to solicit, sell, encourage anyone to purchase materials, or to sign petitions.
 - d. A Permit Holder may not use sound or voice amplification systems, musical instruments, radio communication systems, tape recorder or CD players, or other sound systems or devices.
 - e. A Permit Holder may not sing, chant, dance, shout, or make any loud or disruptive noise.
 - f. A Permit Holder may not obstruct, impair or interfere with the free movement of pedestrian or vehicular traffic, or the conduct of any authorized business at the Airport.
 - g. A Permit Holder may not assault, threaten, or touch any Airport User, breach the peace, or create a nuisance. A Permit Holder may not affix any pin, button or ribbon to any person without such person's express permission.
 - h. Each person engaged in an Expressive Activity shall wear an identification badge while on Airport property that prominently displays the person's name, and the name of the group or organization holding the Permit.
 - i. The Permit Holder shall defend, indemnify, and hold the City, its successors, assigns, officers, employees and elected officials, harmless from and against all Claims arising out of, or concerning, the Permit, or any activity of Permit Holder under the Permit, caused, in whole or in part, by the Fault of Permit Holder, or its agents, employees or representatives, no matter how such Claim may occur or who asserts the Claim. If a Claim is caused by the concurrent Fault of Permit Holder and the City, Permit Holder shall indemnify the City to the full proportionate extent such Claim is attributable to Fault of Permit Holder. " Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all costs and expenses of litigation, including attorney and other professional fees for: (i) destruction, damage, or loss of use of property, or (ii) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages. "Fault" shall include the violation by Permit Holder of any of the terms of its Permit, negligence (of every kind and degree), willful misconduct, and strict liability.
 - j. If any property damage or personal injury results from a Permit Holder engaging in an Expressive Activity at the Airport, the Director may condition the issuance of any other or future Permit to Permit Holder upon the posting of a damage deposit, surety bond, or liability insurance in an amount determined by the Director.
 - k. For Expressive Activities to be conducted at authorized locations in the Terminal, the Department may require the Permit Holder to use Department-supplied furniture and equipment, if available. A schedule of available and required furniture and display equipment shall be available for public inspection at the Department of Aviation offices, and shall be given to each Applicant. The Permit Holder shall provide all other furniture, display equipment and materials necessary or appropriate, consistent with the requirements of this Policy. An Applicant shall identify in its application any special equipment or materials that it proposes to supply or use on the Premises.

The Department Official may deny or restrict the use of such display materials or equipment. Set-up and removal of displays will be the responsibility of the Permit Holder.

- l. The Permit Holder shall keep the Premises clean and free of trash or debris at all times. Upon expiration, or termination, of a Permit, the Permit Holder shall return the Premises to the City in the same condition it was in at the inception of the Permit term, and shall repair any damage to the Premises, or the property of the Airport, or any of the Airport Tenants caused by the Permit Holder, its agents, employees, representatives or customers. If Permit Holder fails to comply with the provisions of this subsection, the City may clean the Premises or make any necessary repairs, and the Permit Holder shall reimburse the City for such cost.
- m. For Expressive Activities conducted inside the Terminal, display material (posters, signs and charts) shall not exceed 3' x 4' in size, shall be professionally prepared, and displayed on an easel. Display material shall not be taped to walls or windows. Display material may only be displayed on a short-term basis and shall be removed and reinstalled on a day-to-day basis. Picket signs may not exceed 2' x 3' in size, and may not be attached to poles longer than six feet in length. Picket signs may not be carried into the Terminal.
- n. No eating or drinking is permitted in the Premises. Eating and drinking will be restricted to Airport Terminal restaurants and snack bars. Smoking is not permitted in the Airport Terminal.
- o. The Department does not provide reserved or free parking. Permit Holders may park in the Airport's public parking lots at their own expense.
- p. In conducting Expressive Activities in an outdoor location, the Permit Holder expressly assumes all risks relating to weather. The term of a Permit will not be extended, nor will the location of the authorized Premises be changed, due to inclement weather.
- q. Nothing herein is intended, or shall be construed, to grant any person rights to conduct Expressive Activities on areas of the Airport exclusively or preferentially leased to any Airport tenant, without the prior express written consent of such tenant.
- r. In its use of the Premises, Permit Holder shall comply with all applicable State, Federal, and City laws, ordinances, rules, and regulations regarding its activities, and the operation, maintenance and use of the airport, including, but not limited to Federal Aviation Regulations, and Transportation Security Regulations. PERMIT HOLDER SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST, AND SHALL TIMELY PAY, ALL FINES OR PENALTIES IMPOSED FOR VIOLATIONS OF SUCH LAWS, ORDINANCES, RULES AND REGULATIONS BY PERMIT HOLDER, OR ITS AGENTS, EMPLOYEES, OR REPRESENTATIVES.

ADOPTED this ____ day of _____, 2002.

Jim Smith
Executive Director
Department of Aviation