

ORDINANCE NO. 47

WHEREAS, It is the Metropolitan Airports Commission's intent to assure fair use of the facilities of the metropolitan airport by passengers, employees, lessees, and persons and groups wishing to engage in constitutionally-protected expression; and

WHEREAS, In order to assure the right of passengers to free access to the airport travel facilities and the free passage among those facilities and to permit equitable access among persons and groups desiring to publicize their views, some reasonable regulation of the exercise of constitutional freedoms on the airport premises is necessary;

NOW, THEREFORE, The Metropolitan Airports Commission ordains:

SECTION 1. – DEFINITIONS

As used in this Ordinance, the following words and terms shall have the following meanings, unless the context otherwise requires:

- A. "Commission" means the Metropolitan Airports Commission, a public corporation of the State of Minnesota.
- B. "Commission's designated representative" means, in the case of the Minneapolis-Saint Paul International Airport (Wold-Chamberlain Field), the Airport Director with offices in that terminal building; in the case of St. Paul Downtown Airport (Holman Field), the Airport Manager with offices in that terminal building; and in the case of all other Commission Airports, the Manager of Secondary Airports with offices at the Commission's headquarters, 6040-28th Avenue South, within the confines of Wold-Chamberlain Field.
- C. "Commission's property" means any of the public airports, aeronautical facilities, fields and runways, highways and service road facilities ancillary thereto which are under the ownership, control or supervision of the Commission and which are open to the public.
- D. "Member of the public" means any natural person, or persons, group, association, foundation, society, organization, nonprofit charitable organizations, or any other entity or enterprise.
- E. "Permittee" means any member of the public who is engaging in activity under a permit issued pursuant to this Ordinance.
- F. The singular includes the plural and the plural includes the singular, unless the context requires otherwise.
- G. The masculine includes the feminine.

SECTION 2. – NOTICE OF CONSTITUTIONALLY-PROTECTED EXPRESSION

- A. Any member of the public desiring to conduct constitutionally-protected, organized and systematic communicative activities on the Commission's property, including but not limited to non-commercial sales of goods, solicitation of contribu-

- tions or donations, distribution of literature, picketing, demonstrations, displaying of signs and seeking petition signatures, shall file at least three (3) days before beginning such activities an Application for Constitutionally-protected Expression in the office of the Commission's duly designated representative for the properties on which the activity is to be conducted.
- B. The Application shall contain the following information:
- (1) The preferred and alternative date, time, and area desired for the proposed activity and the expected duration of the activity;
 - (2) The name and address of the contact person who will coordinate arrangements for the proposed activity;
 - (3) A description of the means and methods intended to be used in conducting the proposed activity, including whether solicitations of donations or sales of goods are intended; and
 - (4) If solicitations of donations or sales of goods for non-commercial purposes incidental to and part of constitutionally-protected expression are intended, the name of the organization or of the person on whose behalf solicitation is to be made; the name of the chief officer and secretary of such organization, and state of incorporation, if any; the name of the person responsible for distribution of funds collected; the purpose for which such solicitation is made and the use of the funds derived from it, including the beneficiaries of the solicitation and the tax-exempt status.
- C. Unless the Commission's designated representative determines that the proposed activity is not constitutionally-protected expression, within two (2) days following the filing of the Application for Constitutionally-protected Expression, he shall issue a written Permit specifying the maximum number of persons who may participate in the proposed activity at any one time, the date, manner and time during which the proposed activity may be conducted, the area in which the proposed activity may be conducted, and the duration of the proposed activity.
- (1) The written Permit shall authorize the proposed activity for the preferred date, time, manner, and area listed in the Application unless the Commission's designated representative determines that the date, time, area or manner conflicts with the orderly use of the property under the control and supervision of the Commission by the traveling public and by other users of such property for aeronautical purposes or conflicts with the constitutionally-protected expression of another member of the public who has applied under this Section.
 - (2) If the preferred date, time, manner or area conflict with the orderly use of the property or the constitutionally-protected expression of others, the Commission's designated representative shall condition his approval on the activity being conducted at the alternative date, time or area listed in the Application, unless the alternatives conflict also with the orderly use of the property under the control and supervision of the Commission by the traveling public and by other users of such property for aeronautical pur-

poses or conflicts with the constitutionally-protected expression of another member of the public who has applied under this Section.

- (3) If the alternate date, time, manner or area also conflicts with the orderly use of the property or the constitutionally-protected expression of others, the Commission's designated representative shall condition his approval on the activity's being conducted at the date, time or area which most honors the applicant's constitutional right to express himself which does not conflict with the orderly use of the property under the control and supervision of the Commission by the traveling public and by other users of such property for aeronautical purposes and does not conflict with the constitutionally-protected expression of another member of the public who has applied under this Section.
 - (4) If the Application states solicitation of donations or sales of goods are intended, the permit shall specify the area from which the solicitation of donations and solicitation and sale of goods may be conducted. The areas of the Terminal Building at Minneapolis-St. Paul International Airport from which such solicitation may take place consist of areas ten feet by twelve feet, including a booth at the option of the permittee, to be located at the north or south ends of the central mezzanine areas of the second floor ticketing concourse and opposite the entrance to the Green and Gold loading concourses.
 - (5) The Permit shall authorize the activity for the duration requested in the Application, except that no permit shall be issued for a period of greater than one month.
 - (6) If the preferred or alternate dates, times, manner or areas of two or more applicants are in conflict, the Commission's designated representative shall issue Permits on a first-come, first-served basis, subject to providing fair and equitable opportunities to all applicants.
 - (7) "Conflict" in this section means incompatibility of uses of the property at the same time and place arising from the number of persons, the physical characteristics of the location and applicable safety standards.
- F. The Commission's designated representative shall give a copy of this Ordinance, and any Special Regulations applicable to the exercise of the constitutionally-protected expression by the members of the public, to the applicant with the Permit.
- G. If the Commission's designated representative determines that the activity proposed in the Application for Constitutionally-protected Expression is not constitutionally-protected expression he shall give written notice of the denial of the Permit to the member of the public who filed the Application within two (2) days following the filing of that Application. The notice of denial shall state the reason for the denial and shall inform the applicant of his right to request a judicial hearing concerning the denial. The member of the public may within five (5) days request in writing a judicial hearing concerning the denial. The Commission shall within five (5) days of the receipt of such request initiate legal action to enjoin the proposed activity. The Commission shall exert every reasonable effort to have

the issue heard on its merits as soon as possible. The burden of proof shall rest on the Commission. If the issue is not heard and determined on its merits within fifteen (15) days from the date the complaint is filed, then an Interim Permit shall be issued to the applicant. The Interim Permit shall continue for so long as no judicial determination has been made and, if the Court so orders, from the time such determination is made until the time for appeal has expired or until a final and binding appellate decision has been reached.

- H. The Permit issued by the Commission's designated representative is an order of the Commission and is subject to judicial review as provided under the Minnesota Statute § 473.675, Subd. 1, as may be amended from time to time.

SECTION 3. – CONDUCT OF CONSTITUTIONALLY-PROTECTED EXPRESSION

- A. Each permittee shall register with the Director of the Airport or his designated representative in the morning of each day the permittee engages in activity authorized under a Permit issued pursuant to Section 2.
- B. Each permittee shall be issued a badge by the Commission's designated representative which shall state a badge number and the name of the organization or cause represented. The permittee shall wear the badge on the upper clothing and in a manner clearly visible to the public during all times he is engaging in constitutionally-protected expression on the Commission's property.
- C. Constitutionally-protected expression shall not be conducted in the following areas:
- (1) Beyond the security check points through which passengers and visitors are required to pass when moving to the aircraft gate positions;
 - (2) In restroom facilities or baggage claims areas;
 - (3) In any area leased exclusively to an airport tenant; and
 - (4) On or immediately adjacent to any escalator, stairway or elevator.
- D. No permittee shall approach any person in line at a ticket counter, security check point, or in any other line.
- E. No permittee shall place a table, bench, chair or other structure on the Commission's property without written permission of the Director.
- F. No permittee shall impede or approach any person or persons loading or unloading baggage from any vehicle.
- G. No permittee shall use any musical instrument, noise-making device, sound or voice-amplifying apparatus, engage in singing or chanting, nor do anything else which would interfere with the effectiveness of the public address system.
- H. No permittee shall pin, tie or attach any flower or other symbol, insignia, article, or object on the clothing, luggage or vehicle of persons at the airport without their consent.

- I. No permittee shall touch any person without their consent.
- J. Each permittee shall comply with the laws of the United States and the State of Minnesota and any and all other applicable ordinances, rules and regulations of the Commission governing conduct on the Commission's property.

SECTION 4. - SOLICITATION OF FUNDS

- A. No member of the public shall engage in the solicitation of donations or the sale of goods for non-commercial purposes incident to and part of constitutionally-protected, organized and system communicative activities on Commission property except as is permitted under Section 2 of this Ordinance.
- B. No permittee shall solicit any donation or engage an airport patron as a potential donee without first identifying the full name of the organization he represents, and stating the purpose of the solicitation; or identifying the purpose or organization by a conspicuous sign.
- C. In soliciting donations, where a minimum donation is required, the permittee must first so inform the person solicited.
- D. In soliciting donations, no permittee shall make any misrepresentation nor shall a permittee represent that (1) books, pamphlets or other merchandise are presented to the recipient free or as a gift if it is the permittee's intention to part with such books, pamphlets, or other merchandise only upon payment of money by the recipient for the merchandise; (2) books, pamphlets or other merchandise will be presented to a person for a certain amount of money if it is permittee's intention to part with the books, pamphlets, or other merchandise only upon payment of an amount greater than the amount initially represented; or (3) the cost of the books, pamphlets, or other merchandise is an amount other than the actual cost thereof.
- E. In soliciting donations or sales of goods, no permittee shall persist in soliciting after such solicitation has been declined.

SECTION 5. – PENALTY

Knowing and willful violation of any of the provisions of this Ordinance is a misdemeanor as the same is defined in the Minnesota Statutes.

SECTION 6. – SEVERABILITY

The provisions of this Ordinance are severable; and if any provision or part of a provision of this Ordinance is held invalid as unconstitutional on its face or as applied by any court of competent jurisdiction, the decision of that court shall not affect or impair any of the remaining provisions or other applications.

SECTION 7. – EFFECTIVE DATE

This Ordinance, following its adoption and upon filing of the same with due proof of publication of notice of adoption of said adoption with the Secretary of State of Minnesota, shall thereafter be in effect.