

RESOLUTION NO. 2016-15

A RESOLUTION BY MASON TRANSIT AUTHORITY ADOPTING A POLICY FOR EXCLUSION FROM SERVICE POLICY.

WHEREAS, the Mason Transit Authority (MTA) desires to provide authority for Mason Transit Authority ("MTA") employees to exclude certain customers/riders from MTA property and buses when customers/riders display or exhibit prohibited behaviors so that other riders may enjoy a safe riding experience;

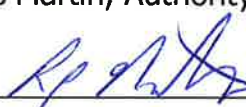
NOW THEREFORE, BE IT RESOLVED by the Mason Transit Authority Board that Policy No. 502 providing for Exclusion from Service, which is attached hereto and incorporated herein is approved and adopted.

Adopted this 17th day of May, 2016

Terri Jeffreys, Chair



Wes Martin, Authority Member



Randy Neatherlin, Authority Member



Don Pogreba, Authority Member


Tim Sheldon, Authority Member



John Campbell, Vice-Chair *Acting Chair*



Tracy Moore, Authority Member



Deborah Petersen, Authority Member

Ginger Seslar, Authority Member

APPROVED AS TO CONTENT: 

Danette Brannin, Acting General Manager

APPROVED AS TO FORM: 

Robert W. Johnson, Legal Counsel

ATTEST: 

Tracy Becht, Clerk of the Board

DATE: 5/17/2016



Title: Exclusion from Service Policy
Number: 502
Effective: May 18, 2016
Prepared by: Mike Ringgenberg, Operations Manager
Approved by: Board Authority
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POL-502 - EXCLUSION FROM SERVICE POLICY

This policy applies to all Mason Transit Authority (MTA) customers.

1.0 Purpose

This policy provides guidance for employee's use excluding customers from MTA property and buses.

2.0 Definitions

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words imparting the singular number shall include the plural numbers and vice-versa, unless the context shall otherwise dictate. For the purpose of this policy, the following definitions apply:

"Bus shelter" shall mean those structures located in transit vehicle loading zones that provide cover for the general public to board and alight from transit vehicles.

"General public" shall mean any person or group of persons, including Transit Agency employees not acting in an official capacity at the time.

"News racks" shall mean any stand, box, structure, rack, or other device, which is designed and used for the sale of and/or distribution of newspapers, periodicals, magazines, or other publications or combinations of the same.

"Park-and-ride lots" shall mean locations at which persons park their individual vehicles and transfer to a transit vehicle or car/vanpool vehicles, including all physical improvements and landscaping.

"Person" shall mean any individual, firm, partnership, corporation, organization, association, or entity of any kind.

"Public transportation services" shall include the definition of public transportation services in RCW 36.57A.010(10), together with vanpools and fixed route and paratransit services, whether operated by Transit Agency or any governmental agency, private person, firm, or corporation contracting with Transit Agency pursuant to chapter 36.57A RCW.

"Transit Agency" shall mean the Mason Transit Authority, a Washington municipal corporation and Public Transportation Benefit Area organized and operating under and by virtue of the laws of the State of Washington.

"Transit Agency employee" shall mean any part-time or full-time, temporary or regular, exempt or non-exempt, represented or non-represented person, including an intern or contracted party, who is compensated by Transit Agency for services by wages, salary, or other remuneration.



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“Transit Agency facilities and properties” shall mean all facilities, structures, schedule and news racks, kiosks, fare vending machines, bulletin and information boards, bus stop signs, lands, interest in lands, air rights over lands, and rights of way of all kinds that are owned, leased, held, or used by Transit Agency for the purpose of providing public transportation services, including, but not limited to, park and ride lots, transit centers, bus shelters, and public streets and sidewalks that are used by the general public to board and alighting from transit vehicles.

“Transit Agency vehicle” shall mean a municipal transit vehicle defined in RCW 46.04.355. It also includes any Transit Agency maintenance vehicle or supervisor van.

“Transit centers” shall mean locations where transit routes have a common terminus and facilities are provided to facilitate general public boarding and alighting from transit vehicles, including all physical improvement and landscaping.

“Transit-related activities” shall mean activities associated with the provision or support of Transit Agency public transportation services, the use of those services by the general public, or Transit Agency sales, promotion, and maintenance activities in support of Transit Agency public transportation services.

3.0 Exclusion from Service

3.1 Introduction

MTA vehicles, facilities, and properties are intended to provide services for the benefit of the general public. Pursuant to RCW 36.57A.080, and in order to maintain public transportation services that are orderly, safe, secure, comfortable, and convenient, MTA has enacted the following Rules of Conduct. The Rules of Conduct are intended to regulate conduct occurring with Transit employees, on MTA vehicles, within or upon MTA facilities and properties, and in connection with MTA’s provision of public transportation services.

3.2 Regulation of Conduct

Prohibited Conduct - The following conduct is prohibited on Transit Agency vehicles, within or upon Transit Agency facilities or property, and in connection with Transit Agency’s provision of public transportation services.

- 3.2.1 Engaging in any conduct prohibited by RCW 9.91.025 or prohibited by any federal, state, or municipal civil or criminal law;
- 3.2.2 Except in a designated place, the use of chewing tobacco or smoking or carrying a lighted or smoldering pipe, cigar, or cigarette; or e-cigarettes;
- 3.2.3 Discarding litter other than in designated receptacles;



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- 3.2.4 Dumping or discarding any materials on transit property, including but not limited to hazardous substances and automotive fluids;
- 3.2.5 Playing any radio, recorder, or other sound-production equipment, except that nothing herein shall prohibit the use of such equipment when connected to earphones that limit the sound to individual listeners or the use of communication devices by Transit Agency employees, Transit Agency contractors, or public safety officers in the line of duty, or the use of private communication devices used to summon, notify, or communication with other individuals (e.g., pagers, beepers, or cellular telephones);
- 3.2.6 Spitting, urinating, or defecating, except in the appropriate plumbing fixtures in restroom facilities;
- 3.2.7 Failure to maintain a reasonable level of personal hygiene. It is not Transit Agency's objective to enforce personal hygiene standards on the public, but in order to maintain a clean and safe environment to all who use Transit Agency's vehicles and property, passengers who may contaminate an area due to blood, urine, fecal matter, or other body fluids will be refused transportation. This includes those whose body odor is so offensive that others would complain and vacate the immediate area;
- 3.2.8 Carrying any flammable liquid, explosive, acid, or other article or material likely to cause harm to others except that nothing herein shall prevent a person from carrying a cigarette, cigar, or pipe lighter or carrying a firearm or ammunition in a way that is not otherwise prohibited by law or these Rules of Conduct;
- 3.2.9 Obstructing or impeding the flow of Transit Agency's vehicles or passenger traffic or hindering or preventing access to Transit Agency vehicles, facilities, or property. This includes causing unreasonable delays in boarding or alighting, blocking or partially blocking an aisle or stairway with a package or object, reclining in more than one seat, or otherwise unlawfully interfering with the provision or use of public transportation services;
- 3.2.10 Disturbing others by engaging in loud, raucous, unruly, harmful, aggressive, violent, or harassing behavior (including, but not limited to flashing gang signs or displaying gang colors is considered harassing behavior);
- 3.2.11 Destroying, defacing, or otherwise damaging Transit Agency property;
- 3.2.12 Possessing any open beverage container holding alcohol or possessing controlled substances, unless otherwise authorized by law;
- 3.2.13 Carrying, exhibiting, displaying, or drawing any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons, unless otherwise authorized by law;
- 3.2.14 Throwing an object at Transit Agency vehicles, facilities, or property, or throwing an object at any person on Transit Agency property;



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- 3.2.15 Allowing any animal to occupy a seat on transit property, to run at large, to unreasonably disturb others, to leave waste matter on Transit Agency property, to board transit vehicles unless secured in an approved pet container, or to interfere with transit-related activities. Exceptions will be made for service animals;
- 3.2.16 Engages in other conduct that is inconsistent with the intended purpose of the transit facility, transit station, or transit vehicle and refuses to obey the lawful commands of an agent of the transit authority or a law enforcement officer to cease such conduct;
- 3.2.17 Roller-skating, rollerblading, or skateboarding;
- 3.2.18 Riding bicycles, unicycles, mopeds, or other motorcycles, except where public vehicle travel and access is permitted;
- 3.2.19 Eating on Transit Agency vehicles or in prohibited areas of Transit Agency facilities and properties;
- 3.2.20 Drinking, except from a spill-proof covered container, on Transit Agency vehicles or in prohibited areas of Transit Agency facilities and properties;
- 3.2.21 Using a public address system, loudspeaker, or other sound-amplifying device, except as authorized by Transit Agency or its designee;
- 3.2.22 Using Transit Agency property for residential or commercial parking purposes except as authorized by Transit Agency or its designee;
- 3.2.23 Operating, stopping, standing, or parking a vehicle in any roadway or location restricted for use only by Transit Agency vehicles or otherwise restricted;
- 3.2.24 Sitting or lying on floors of Transit Agency transit vehicles or floors, sidewalks, asphalt, or other ground covering in or on Transit Agency facilities and properties;
- 3.2.25 Sleeping, camping, or storing personal property on benches or floors on or within Transit Agency's vehicles, facilities, properties, unless otherwise authorized by law;
- 3.2.26 Entering or remaining upon any nonpublic areas of Transit Agency facilities or properties, including, but not limited to, staging areas, work areas, and equipment rooms, except when authorized by Transit Agency or its designee;
- 3.2.27 Entering Transit Agency vehicles, facilities, or properties without wearing a shirt or shoes unless medical accommodation is pre-authorized by the Transit Agency to allow for coverings other than shoes;
- 3.2.28 Engaging in commercial activities, except when such activities are authorized by Transit Agency concession contract, lease, or other written authorization;
- 3.2.29 Engaging in public communication activities;
- 3.2.30 Engaging in any civic, cultural, or other special event, not included in the definitions of commercial or public communication activities in Section 4.2, except as such activities are authorized by Transit Agency or its designee in a written permit, license, concession contract, lease, or other written authorization;



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- 3.2.31 Committing any act which tends to create or incite, or creates or incites, an immediate breach of peace, including, but not limited to,
- a. fighting,
 - b. racing,
 - c. obscene language and noisy or boisterous conduct tending to cause a breach of the peace, and
 - d. personally abusive epithets or words or language of an offensive, disgusting, or insulting nature, which epithets, words, or language when addressed to the ordinary citizen are, as a matter of common knowledge, inherently likely to provoke a violent reaction of fear, anger, or apprehension;
- 3.2.32 Engaging in sexual activity with self or others while riding or accessing Transit Agency vehicles, facilities, or properties;
- 3.2.33 Displaying or reading pornographic material where others may see it;
- 3.2.34 Engaging in gambling or any game of chance for the winning of money or anything of value;
- 3.2.35 Using Transit Agency vehicles, facilities, or properties for nontransit-related activities, except as authorized by Transit Agency or its designee;
- 3.2.36 Entering Transit Agency vehicles, facilities, or properties when intoxicated or medicated to an extent that falters activities;
- 3.2.37 Extending an object or a portion of one's body through the door or window of a Transit Agency vehicle;
- 3.2.38 Hanging or swinging on bars or stanchions with feet off the floor while on transit property or hanging onto or otherwise attaching oneself to the exterior of a transit vehicle or other transit property;
- 3.2.39 Engaging in any physical sport activity on transit property;
- 3.2.40 Loitering or "hanging out" (customers are expected to board the next scheduled transit vehicle traveling in the direction of their destination);
- 3.2.41 Refusing to allow proper securement of a wheelchair on Transit Agency vehicles;
- 3.2.42 Failure to pay the appropriate fare as required by Transit Authority; or falsely representing oneself as eligible for a special or reduced fare or obtaining any permit or pass related to the Transit Agency transit system by making a false representation;
- 3.2.43 Falsely claiming to be a transit operator or other transit employee or volunteer, or, through words, actions and/or the use of clothes, insignia, or equipment resembling department-issued uniforms and equipment, creating a false impression that one is a transit operator or other transit employee or volunteer;
- 3.2.44 Interfering or tampering with electronic equipment, fare boxes, or any other equipment on Transit Agency vehicles or properties;
- 3.2.45 Laying hands or verbally intimidating a transit operator or transit employee, including spitting on them.



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- 3.2.46 Exceeding the number of no-shows allowed under the paratransit procedures, provided that trips missed for reasons beyond the customer's control shall not be counted as no-shows;
- 3.2.47 Impeding paratransit service through non-compliance with the paratransit procedures; and
- 3.2.48 Violating an exclusion order issued under these Rules of Conduct.

3.3 Exclusion From Service.

- 3.3.1 *Basis for Exclusion.* Any person engaging in prohibited conduct under the provisions of Section 3.2 may be refused entrance upon, ordered to leave, or otherwise restricted in the use of Transit Agency vehicles, facilities, or properties by a commissioned law enforcement official, Transit Agency personnel, or authorized personnel of a Transit Agency contracted service provider. Failure to immediately comply with such a removal or exclusion order may be grounds for prosecution for criminal trespass and/or unlawful transit conduct.
- 3.3.2 *Immediate Exclusion or Removal.* A Transit Agency employee may immediately reseal, refuse transportation, or remove from Transit Agency vehicles, facilities, or properties without prior written notice a person who has engaged in prohibited conduct under Section 3.2 which, in the Transit Agency employee's discretion, poses a safety or security risk, interferes with or impinges on the rights of others, impedes the free flow of the general public, or impedes the orderly and efficient use of Transit Agency vehicles, facilities, or properties. If an individual who is immediately excluded or removed is also excluded from future access to Transit Agency vehicles, facilities, or properties, Transit Agency should, to the extent possible, give notice to that individual of the future exclusion pursuant to Sections 3.3.3 and 3.3.4.
- 3.3.3 *Notice Procedure.* Transit Agency may give a person to be excluded from Transit Agency vehicles, facilities, or properties written notice, to the extent possible, by personal delivery or by U.S. Postal Service Priority Mail, delivery confirmation requested, addressed to the person's last known address. The notice shall specify the reason or reasons for exclusion, identify the scope, duration, and effective date of the exclusion, and explain the appeal process. The exclusion notice is effective upon actual or constructive receipt as set forth in Section 3.3.4.
- 3.3.4 *Constructive Receipt.* Receipt of an exclusion notice is construed to have occurred if the person knew or reasonably should have known from the circumstances that he or she is excluded from Transit Agency vehicles, facilities, or properties. Receipt of an exclusion notice is also presumed to have been accomplished three calendar days after the notice has been placed in the U.S. Mail to the person's last known mailing address.
- 3.3.5 *Length of Exclusion.* The following suggested exclusion lengths are guidelines to be used by Transit Agency in determining the duration of a particular exclusion



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under the provisions of Section 3.3. The actual exclusion period imposed may be shorter or longer depending on the circumstances of each case. Circumstances that Transit Agency may consider in determining the length of exclusion include, but are not limited to, the circumstances of the incident and the individual's history of documented prior conduct/incidents while using or accessing Transit Agency vehicles, facilities, or properties. **Permanent exclusion may be appropriate under certain circumstances.**

- a. If the person being excluded has had no policy violations, including exclusions or removals, in the prior 12 months, and the prohibited conduct would constitute a violation of this policy or misdemeanor in Washington State or prohibited by RCW 9.91.025, the duration of the exclusion should not exceed 30 days.
- b. If the person being excluded has had one prior policy violation, including exclusions or removals, in the prior 12 months, and the prohibited conduct would constitute a violation of this policy or misdemeanor in Washington State or prohibited by RCW 9.91.025, the duration of the exclusion should not exceed 90 days.
- c. If the person being excluded has had two or more prior policy violations, including exclusions or removals, in the prior 12 months, or if the prohibited conduct is identified as a crime against a person, or involves a firearm or other dangerous weapon, or constitutes a felony then the duration of the exclusion may range from 180 days to a permanent exclusion.

3.3.6 *Appeal Procedure.* Not later than 15 calendar days after the exclusion notice becomes effective, an excluded person may appeal in writing to the Transit Agency Operations Manager for a review of the exclusion. The appellant may request a hearing, or the appellant may request review without a hearing based on a written statement setting forth the reasons why the appellant believes exclusion is invalid or improper. If the appellant is unable to respond in writing, Transit Agency will make reasonable accommodations. If no hearing is requested, the Transit Agency Operations Manager, or his or her designee, shall render a written decision within 20 calendar days after Transit Agency's receipt of the appeal.

3.3.7 *Hearing.* If the appellant does request a hearing, the hearing shall be held within 30 calendar days after Transit Agency's receipt of the appeal. The Transit Agency Operations Manager, or his or her designee, shall render a written decision within 20 calendar days after the hearing. The appellant may be represented by counsel and may present witnesses to testify upon oath or affirmation in support of the appeal. The Operations Manager may also hear from witnesses who testify upon oath or affirmation, and he or she may examine evidence during the appeal hearing. The exclusion shall remain in effect during the appeal process.



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3.4 Other Laws Not Limited

The enforcement of Section 3.3 herein is not intended to limit, in any manner, the enforcement of any applicable federal, state, or municipal laws, provided that Transit Agency employees and volunteers are not authorized to assist in enforcing a court order prohibiting or restricting contact with any other person other than to notify appropriate law enforcement personnel via Transit Agency's dispatcher or Transit Agency Supervisor.

4.0 **Liability**

Nothing in Section 3.3 herein shall create a duty to any person on the part of Transit Agency or form any basis for liability on the part of Transit Agency, its officers, agents, employees, or volunteers. The obligation to comply with Section 3.3 is solely that of any person entering and using Transit Agency's vehicles, facilities, and properties, and Transit Agency's enforcement of Section 3.3 is discretionary not mandatory.



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Appendix 1



MTA EXCLUSION ORDER

DATE: _____

EXCLUDED PERSON: _____

This letter shall serve as a Notice of Exclusion.

This exclusion is effective _____ (mm/dd/yy)

For _____ or circle one: 7 / 30 / 60 / 90 / 180 / 365 / days or lifetime

Throughout this period you are barred from entering in or onto **any Mason Transit Authority vehicle, facility or property. Failure to comply with this Exclusion Order shall be grounds for criminal prosecution for trespass.**

This action is being taken because: _____

If you wish to appeal this decision, you need to contact the Operations Manager, in writing, at the address below within 15 days of the effective date of this Exclusion Order. You may request a hearing *or* a review without a hearing based on a written statement why you believe this exclusion is invalid or improper. **This exclusion will remain in effect throughout the appeal process.**

 Operations Supervisor/Manager

Notes:

