

RESOLUTION FY14-020

**Resolution Adopting Restated Rules and Regulations
Regarding the Exercise of First Amendment Rights
At the Port of Huntsville**

WHEREAS, various individuals, groups and organizations desire, from time to time, to engage in certain activities at the Port of Huntsville designed to share their views with the public; and

WHEREAS, the courts have determined that individuals, groups and organizations have a legal right to engage in First Amendment activities in traditionally public forums such as public buildings, sidewalks and roads; and

WHEREAS, space in the terminal building at Huntsville International Airport (“the Airport”) is limited and the ability to freely access Airport facilities over the roadways at the Port of Huntsville is critical; and

WHEREAS, the exercise of First Amendment Rights at the Port of Huntsville gives rise to certain safety and security issues, and could potentially lead to damage of Airport Authority property, traffic congestion and interference with users of the Airport which could impede airport operations; and

WHEREAS, the courts have determined airport terminal buildings to be non-public forums and have permitted public agencies to adopt and enforce reasonable restrictions on the exercise of First Amendment Rights at airports, so long as those restrictions are content neutral, narrowly tailored to serve a significant government interest and leave open alternate channels for individuals, groups and organizations to communicate information; and

WHEREAS, it is deemed to be in the best interest of the Airport Authority, the traveling public, tenants of the Jetplex Industrial Park and users of the Port of Huntsville that the Airport Authority have rules in effect regulating the exercise of First Amendment Rights at the Port of Huntsville; and

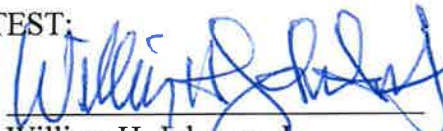
WHEREAS, the current Rules and Regulations governing such activities were adopted in 1993, and are in need of updating.

NOW THEREFORE, be it resolved by the Board of Directors of the Huntsville-Madison County Airport Authority that the Rules and Regulations pertaining to the exercise of First Amendment Rights at the Port of Huntsville, together with the Permit Application and the Permit, attached as Exhibit “A” hereto, be, and hereby are, adopted for use at the Port of Huntsville, together with such changes, updates and revisions as shall be deemed necessary and appropriate by the Executive Director.

ADOPTED on this the 10th day of June, 2014.

HUNTSVILLE-MADISON COUNTY
AIRPORT AUTHORITY

By: 
Carl J. Gessler, Jr.
Its: Chairman

ATTEST:
By: 
William H. Johnson, Jr.
Its: Secretary

HUNTSVILLE-MADISON COUNTY AIRPORT AUTHORITY

RULES AND REGULATIONS

GOVERNING THE EXERCISE OF

FIRST AMENDMENT RIGHTS

AT THE PORT OF HUNTSVILLE

Policy Statement

The number of individuals working at the Port of Huntsville continues to rise, as do the number of passengers using Huntsville International Airport (“the Airport”). Individuals and groups from time to time desire to engage in certain activities at the Port of Huntsville designed to share their views with the public. Various interest groups and individuals desire to sell and/or distribute literature or printed material, or to solicit funds at the Airport.

Space at the Airport is limited and the ability to access Airport facilities over the roadways in the Port of Huntsville is critical. Public displays and the sale or distribution of literature and printed material give rise to issues of safety and security.

As a result, in order to promote safety, enhance security, reduce the possibility of damage to Airport Authority property, enhance the orderly flow of traffic, reduce interference with users of the Airport and provide for efficient airport operations, the Board of Directors of the Huntsville-Madison County Airport Authority (the Airport Authority), has adopted certain Rules and Regulations governing the exercise of First Amendment Rights at the Port of Huntsville.

Definitions

As used in these Rules and Regulations, the Permit Application and the Permit, the terms stated below are defined as follows:

1. Activity Area. The “Activity Area” is the location at the Port of Huntsville stated in the Permit where individuals, groups and organizations are allowed to conduct the Activity.

2. Applicant. An “Applicant” is any individual, group or organization applying to the Airport Authority for a Permit to exercise First Amendment Rights at the Port of Huntsville.

3. First Amendment Rights/Activity. The term “First Amendment Rights” or “Activity” shall include, but not necessarily be limited to, pamphleteering, leafleting, speeches, marches, rallies, vigils, religious services, demonstrations, picketing and all other forms of conduct involving communication or expression of views or grievances, engaged in by one or more persons, the conduct of which has the intent, effect or propensity to attract attention to the Activity.

4. Permit. A “Permit” is the document issued by the Airport Authority, following a receipt of a Permit Application, describing the terms and conditions under which an individual, group or organization is allowed to conduct a Permitted Activity at the Port of Huntsville.

5. Permit Application. A “Permit Application” is the form which must be completed by any Applicant seeking a Permit to exercise First Amendment Rights at the Port of Huntsville.

6. Permittee. A “Permittee” is any individual, group or organization who has been issued a Permit to exercise First Amendment Rights at the Port of Huntsville.

7. Permitted Activities. The term “Permitted Activity” shall mean the specific First Amendment Rights that an individual, group or organization shall be allowed to conduct at the Port of Huntsville in accordance with the provisions of a Permit issued by the Airport Authority following receipt of a Permit Application.

Distribution and/or Sale of Printed Material

The distribution of books, newspapers, leaflets, flyers, pamphlets, brochures or other literature or printed material at the Port of Huntsville, without charge, shall only be allowed pursuant to a valid Permit issued in accordance with these Rules and Regulations.

The sale of books, newspapers, leaflets, pamphlets, flyers, brochures or other literature or printed material, or any means of advertising, is considered a commercial activity and may only be conducted pursuant to a valid concession agreement.

Solicitation of Funds

The solicitation of funds from the public at the Port of Huntsville is prohibited.

Conduct

As a condition of being issued a permit to engage in First Amendment Rights at the Port of Huntsville, Permit holders shall be required to strictly abide by the following conditions:

1. Permits. No public exercise of First Amendment Rights shall be conducted at the Port of Huntsville without a valid Permit. Issuance of any Permit shall be conditioned on the individual, group or organization, and all participants in the Activity, releasing and indemnifying the Airport Authority, its directors, officers, employees and representatives from and against any and all liability arising as a result of the Activity. Any Permit Application made on behalf of a group or organization must be signed by an official duly authorized to bind the participants. The Airport Authority reserves the right to require every individual participating in the exercise of First Amendment Rights to sign the Permit Application as a condition of participating in the Permitted Activity.

2. Activity Area. The exercise of First Amendment Rights shall be limited to the “Activity Area” designated in the Permit. No participants shall be permitted to occupy space outside of the designated Activity Area. No exercise of First Amendment Rights by the public will be permitted in the terminal building or concourse area.

Individuals permitted to exercise their First Amendment Rights at the Airport must park in the area designated in the Permit. The Airport Authority reserves the right to require individuals participating in the Permitted Activity to park in the public parking deck and to pay the required parking fees. No individual participating in the exercise of First Amendment Rights at the Port of Huntsville will be allowed to park outside of the area designated in the Permit.

3. Numbers. The number of individuals allowed to participate at any one time in an exercise of First Amendment Rights at the Port of Huntsville will be designated in the Permit. The number of individual participants will be limited to a reasonable number, depending upon the Permitted Activity and the location.

4. Cost. The individual(s), groups and organization, issued a Permit shall pay for any cost or expense associated with the exercise of First Amendment Rights at the Port of Huntsville; including, but not limited to, restoring the Activity Area to the condition it was in prior to the Activity, repairing any damage to Airport Authority property caused by the Permittees or related to the Activity, collecting litter/debris from the Activity Area and any cost incurred by the Airport Authority related to services provided by Public Safety Officers as a result of the Activity.

5. Permitted Activity. The exercise of First Amendment Rights at the Port of Huntsville shall be conducted in a peaceable and orderly manner. No persons participating in any exercise of First Amendment Rights will be allowed to breach the peace or act in a threatening manner. Participants shall not obstruct, impede or otherwise interfere with the progress of passengers, pedestrians or motor vehicle traffic. No exercise of First Amendment Rights will be allowed to breach the peace, injure or intimidate individuals or damage (or threaten to damage) property. Individuals participating in the Activity shall not be permitted to engage or initiate conversations with members of the public. Any such conversations must be initiated by the public. Permitted Activities shall be conducted only during daylight hours. Participants shall not be allowed to use amplification equipment or artificial lighting. Portable stands, tables, displays and signage may only be used in the Activity Area with the advance written approval of the Airport Authority as detailed in the Permit. Any portable stands, tables, displays and signage allowed in the Permit must be removed from the Port of Huntsville following each days’ Activity. No littering shall be condoned in the Activity Area.

6. Signage. Applicants shall obtain the advance written approval for any signs or banners to be used in connection with the exercise of First Amendment Rights at the Port of Huntsville. Further, the Airport Authority reserves the right to require Permittees to use some sort of signage to identify the Activity and or the individual, group or organization participating in the Activity. Any such means of identification shall be subject to the advance written approval of the Airport Authority.

Permits

No exercise of First Amendment Rights shall be conducted at the Port of Huntsville without a valid Permit issued by the Airport Authority. Permits shall be issued pursuant to the following criteria:

1. Applications. All Permit Applications shall be submitted in writing to the Huntsville-Madison County Airport Authority, Attention: Deputy Director. All Applications shall include (a) the name of the Applicant, together with a local address and phone number; (b) the name, address and phone number of the individual, group or organization, (c) certification that the Applicant has the authority to bind the group or organization, and will be responsible for the activities of all participants, (d) the name, address and phone number of each participant, and (e) certification that the group or organization, and each participant, will strictly comply with these Rules and Regulations and with the conditions contained in the Permit;

2. Security Deposit. The Airport Authority reserves the right to condition the granting of a Permit on the Applicant posting a security deposit. The form of any such security must be reasonably acceptable to the Airport Authority. Any cash security shall not bear interest and need not be kept separately. Applying any such security toward the cost of any damage or expense created by the exercise of First Amendment Rights shall be in addition to any other rights which the Airport Authority might have and in no way limits the Airport Authority's right to exercise any other legal remedies.

3. Order of Preference. All Permit Applications to exercise First Amendment Rights at the Port of Huntsville will be processed in the order of receipt. The Airport Authority reserves the right, in its sole discretion, to limit the number of First Amendment Activities permitted to be held at the Port of Huntsville at any one time.

4. Charities. Applications for Permits to distribute printed material which requests contributions on behalf of charitable organizations, must show that the organization is duly registered and in good standing with all required governmental agencies.

5. Assignment. Permits may not be assigned or transferred.

6. Validity. Permits shall be granted for the time period shown on the Permit. Initial Permits shall not be granted for longer than five (5) business days, but may be extended for longer periods upon request by an Applicant. No Permit shall be issued for a duration of over one (1) month. In the event Permittees are not using the Permit by not conducting the approved Activity during the approved hours, the Permit shall be deemed to be terminated. In the event of such termination the Applicant must obtain a new Permit before resuming the exercise of First Amendment Rights at the Port of Huntsville. Permitted Activities will not be conducted outside the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, and may be further restricted to times stated in the Permit.

7. Application Time. In order to give the Airport Authority adequate time to prepare for the Activity, Applicants should expect up to ten (10) business days for the Airport Authority to process the Permit Application.

8. Denial/Revocation. The Airport Authority reserves the right to deny a Permit Application or Permit extension to any Applicant who has violated these Rules and Regulations or the conditions of a past Permit. The Airport Authority reserves the right to revoke an existing Permit in the event the participants violate these Rules and Regulations or the terms of the Permit. The Airport Authority reserves the right to deny or revoke a Permit in the event of an emergency, in the interest of safety or security, or in the event circumstances are such that the Activity can no longer be reasonably accommodated.

9. Appeal Procedure. If (1) an Application is denied, or (2) the Permit contains restrictions unacceptable to the Applicant, or (3) a Permit is issued and revoked, the Applicant or Permittee may appeal the denial, the conditional Permit or the Permit revocation to the Executive Director. All such appeals must be in writing addressed to the Huntsville-Madison County Airport Authority, Attention: Executive Director. All such appeals must be received by the Airport Authority within ten (10) calendar days of the date the Application is denied, the conditional Permit is issued or the Permit is revoked.

All appeals will be heard by the Executive Director, or one designated by the Executive Director. The Executive Director shall schedule the hearing no later than ten (10) business days after receipt of an appeal submitted in accordance with this section. Notwithstanding, no appeal will be heard while an Applicant or Permittee is currently in violation of the conditions of these Rules and Regulations or the conditions of an existing Permit. Only the Applicant or Permittee, one (1) representative and up to two (2) witnesses will be permitted to appear at the hearing. The decision of the Executive Director or hearing officer will be rendered in writing no later than ten (10) business days after the date of the hearing, and, if denied, will contain the reason(s) for the decision. The decision of the Executive Director or hearing officer shall be final. No additional appeals by the same Applicant or Permittee contesting the decision or the same action by the Airport Authority shall be considered by the Airport Authority.

10. City of Huntsville Permit. In accordance with the special events ordinance of the City of Huntsville, the exercise of First Amendment Rights at the Port of Huntsville may require a permit from the city. In the event a Permit is required by the City of Huntsville in order to conduct the First Amendment Activity, then no application will be considered by the Airport Authority until a copy of the City Permit is provided to the Airport Authority. In the event of a conflict in the terms of the Permit from the City of Huntsville and the Permit from the Airport Authority, the more restrictive on the Applicant will apply. Denial of a Permit Application or revocation of a Permit issued by the City of Huntsville, will result in denial of the Permit Application or revocation of the Permit by the Airport Authority.

Amendments

The Board of Directors of the Airport Authority reserves the right for the Executive Director to make such changes, revisions, amendments and deletions to the Rules and Regulations regarding the exercise of First Amendment Rights as shall be necessary and appropriate to respond to changing circumstances at the Port of Huntsville.

Adopted on the _____ day of _____, 2014.

HUNTSVILLE-MADISON COUNTY
AIRPORT AUTHORITY

CARL J. GESSLER, JR.
Its: Chairman

ATTEST:

WILLIAM H. JOHNSTON, JR.
Its: Secretary

HUNTSVILLE-MADISON COUNTY AIRPORT AUTHORITY

FIRST AMENDMENT RIGHTS PERMIT APPLICATION

(To be completed by the individual authorized to represent the group or organization applying for a permit to exercise First Amendment Rights at the Port of Huntsville)

Type of Activity Requested: _____

Date(s) of Activity: Start date: _____
End date: _____

Daily Hours of Activity: Start time: _____
End time: _____

Name/address of group or organization: _____

Phone number of group or organization: _____

Name/address of authorized individual requesting Permit: _____

Phone number of authorized individual representative: _____

Is individual authorized to represent/bind each individual participating in the Activity: Yes / No

In what capacity is individual organizer authorized to represent/bind the group or organization?: _____

Does the Activity involve soliciting or is it intended to raise money? Yes / No

What is the likelihood that the Activity will result in injury to persons or damage to property? _____

What is the likelihood that the Activity will result in disruption of the traffic flow, interference with the traveling public or interruption of Airport operations:

Number of individuals participating in the Activity at any one time: (Attach sheet listing name/address/phone number of each individual participating in the Activity.)

Description of any temporary stands, tables or displays to be used:

Are signs to be used:

Yes / No

If yes, are copies of all signs attached:

Yes / No

How many vehicles will require parking:

What provisions have been made for toilet facilities:

What provisions have been made for cleanup of litter/debris:

Is a Huntsville City Permit required for the Activity:

Yes / No

If so, is a copy of the City Permit attached:

Yes / No

Have you received, read and understood the Rules and Regulations pertaining to First Amendment Rights :

Yes / No

The undersigned hereby requests issuance of a Permit to exercise First Amendment Rights at the Port of Huntsville. In consideration of the issuance of a Permit, and as a condition of the issuance of a Permit, the undersigned hereby warrants and affirms the following on behalf of himself/herself, the group or organization, he/she represents and each and every individual participating in the Activity:

1. The undersigned hereby affirms that he/she is an authorized agent of the group or organization requesting the Permit, and has the authority to bind the group or organization. The undersigned hereby affirms that every individual participating in the Activity is a member of the group or organization requesting the Permit and that the undersigned therefore represents each individual participating in the Activity. The undersigned hereby affirms that he/she is signing this Permit Application on behalf of the group or organization named above and each and every individual participating in the Activity.

2. The undersigned hereby represents that he/she has received a copy of the Huntsville-Madison County Airport Authority Rules and Regulations governing First Amendment Rights, and has read and understands the Rules and Regulations and, as an express condition of being issued a Permit, agrees to strictly abide by all conditions of the Permit and all provisions of the said Rules and Regulations.

3. The undersigned, for and on behalf of himself/herself, the group or organization named above and each and every participant in the Activity, and their heirs, personal representatives, successors, and assigns, hereby full, finally and forever releases, discharges and acquits the Huntsville-Madison County Airport Authority, its directors, officers, employees and agents, from and against any and all responsibility or liability arising from or related to the Activity or their presence at the Port of Huntsville; including, but not limited to, any loss, cost, damage, expense or cause of action resulting from personal injury, disability or death, or damage to or loss of personal property, which may now exist or may arise in the future.

4. The undersigned, for and on behalf of himself/herself, the group or organization named above and each and every individual participating in the Activity and their heirs, personal representatives, successors and assigns, hereby agrees to indemnify, defend and hold harmless the Huntsville-Madison County Airport Authority, its directors, officers, employees and agents, from and against any and all loss, cost, damage, expense, lien, judgment, liability or cause of action arising from or related to the Activity or their presence at the Port of Huntsville; including, but not limited to, court costs, investigation expenses, expert witness fees and attorneys=fees, regardless of when such cause of action arose or was filed.

5. The undersigned understands that falsifying information given in this Application, or failing to fully complete this Application, will result in denial of the Application or revocation of the Permit.

6. The undersigned hereby acknowledges that he/she has read this Application, understands the legal effect of this document and voluntarily accepts the terms and conditions contained herein.

Signed on this the _____ day of _____, 20____.

(Signature)

(Print name)

HUNTSVILLE-MADISON COUNTY AIRPORT AUTHORITY

FIRST AMENDMENT RIGHTS PERMIT

The Applicant named below is hereby granted this Permit to conduct the activity stated below, conditioned upon strict compliance with (1) the Rules and Regulations concerning First Amendment Rights adopted by the Huntsville-Madison County Airport Authority, (2) the conditions contained in this Permit, (3) the conditions contained in any permit issued by the City of Huntsville, and (4) such other restrictions, conditions or limitations as may be deemed necessary by the Huntsville-Madison County Airport Authority to provide for the safety of the public and the security of the Port of Huntsville.

Name of Permittee: _____

Type of Permitted Activity: _____

Date(s) of Activity: _____

Hours of Activity: _____

Expiration of Permit: _____

Location of Activity: See attached map)

Location where participants are to park: Parking Deck or see attached map

Approved temporary stands, tables, displays or signs: _____

Maximum Number of participants at any one time: _____

Individual organizer: _____
Cell phone number: _____

Special Conditions: _____

Dated the _____ day of _____, 20__.

HUNTSVILLE-MADISON COUNTY
AIRPORT AUTHORITY

AGREED:

By: _____

(Print name)

By: _____
LUTHER H. ROBERTS, JR.
Its: Deputy Director

Date: _____