

CITY OF APPLETON POLICY VALLEY TRANSIT		TITLE: RULES OF CONDUCT AND EXCLUSION PROCEDURE FOR VALLEY TRANSIT
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POLICY SOURCE: Valley Transit	POLICY APPLICATION: Employees and Public	TOTAL PAGES:
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I. PURPOSE

The purpose of this policy is to promote the comfort and safety of Valley Transit employees and customers and to encourage the proper use of Valley Transit facilities and services.

II. POLICY

To help keep Valley Transit employees and customers safe, no one is allowed to engage in unsafe or unlawful activity while using Valley Transit facilities or services, including while in a contracted transit service provider’s vehicle.

There are two levels of conduct that are prohibited: Level I (inappropriate conduct) and Level II (criminal conduct).

If person engages in Level I conduct, Valley Transit employees are authorized to issue a verbal warning. If an additional warning is issued the same day, the General Manager or designee may exclude the person from Valley Transit’s facilities and/or services for up to one (1) month.

If a person engages in Level II conduct, Valley Transit employees must immediately contact the police. In addition to whatever actions are taken by the police, the General Manager or designee may exclude the person from using Valley Transit’s facilities and/or services for up to one year.

A person excluded from using Valley Transit’s facilities and services may request a reconsideration of the exclusion from the General Manager or designee, and may appeal the reconsideration decision of the General Manager or designee to the Fox Cities Transit Commission.

III. DISCUSSION

Customer and employee safety is a paramount concern for the City of Appleton and Valley Transit. It is important that people (i) know the rules they must follow and (ii) follow the rules.

By clearly stating what behavior is not appropriate while on a bus or in a transit facility, and how employees should react if such behavior occurs, customers and employees should better understand what is expected of them.

IV. DEFINITIONS

The following words shall have the following meanings in this policy, except where the context otherwise requires:

Employee means a person employed by the City of Appleton (including Valley Transit) or a person providing a service under contract by Valley Transit (such as paratransit bus operators).

Exclusion means being prohibited from entering or using Valley Transit facilities and services, as determined by Valley Transit.

Facility means property owned, operated, leased or maintained by Valley Transit.

Services means any service offered by Valley Transit or contracted by Valley Transit to be offered on behalf of Valley Transit.

V. PROCEDURES

A. RULES OF CONDUCT

1. **“Level I” – Inappropriate Conduct.** If a person engages in any of the following behaviors while using Valley Transit’s services or facilities, an employee may give the person a verbal warning or may contact a supervisor or the police if the situation warrants. A person issued more than one verbal warning be asked by the General Manager or designee to immediately leave the facility or stop using services and/or may be excluded from the facilities and/or services for up to one month.
 - a. **Alcohol.** Drinking alcoholic beverages or possessing open containers of alcoholic beverages.
 - b. **Animals.** Bringing any animal that is uncaged or otherwise not permitted, except for service animals, as defined by the ADA. Caged animals must fit on a person’s lap.

- c. Audio Devices. Using an audio device (phone, iPod, portable radio, DVD player, etc.) unless the equipment is used with earphones or not otherwise audible to others.
- d. Bus Windows. Hanging out, reaching out, or putting anything out of a bus window.
- e. Dangerous Item. Bringing into a facility or onto a bus any item of a dangerous nature unless otherwise lawfully allowed, including, but not limited to: Weapons; Dangerous, toxic or poisonous substances; Vessels containing caustic materials, chemicals, acids or alkalis; Fishing rods which are not broken down or have unsecured or exposed hooks or lures; Ski poles unless secured to skis or have tip covers; sheet glass; sharp objects; Fencing foils that are unsheathed.
- f. Flammable Material. Lighting or operating an incendiary device (e.g., match, lighter).
- g. Hanging/Swinging/Moving. Hanging or swinging from stanchions or other bus equipment with feet off the floor or moving around the bus while the bus is in motion unless otherwise permitted.
- h. Large Items. Bringing onto a bus large articles, packages, baggage or non-collapsible strollers that block the aisle and restrict the free movement of passengers.
- i. Littering.
- j. Segway's. Use of or bringing a Segway (or like device) on a bus unless otherwise permitted.
- k. Smoking. Smoking, including e-cigarettes and vaporizers.
- l. Solicitation. Engaging in unauthorized canvassing, selling, soliciting or distributing any material that is not otherwise permitted by policy or law.
- m. Standee Line. Standing in front of the standee line on a moving bus.
- n. Talking to Bus Operator. Having distracting or unnecessary conversations with a bus driver when the bus is in operation.
- o. Unmonitored Children. Failing to monitor a child (children five and under must be closely accompanied at all times by an older responsible individual).
- p. Wheels. Roller-skating, roller-blading and skateboarding.

2. “Level II” – Illegal Conduct. Employees must immediately request police assistance upon the reasonable belief that a person is engaged in illegal conduct, as defined by Wis. Stats. §§ 939.50 and 939.51, at a Valley Transit facility or when using a Valley Transit service. A person known to have or reasonably believed to have engaged in illegal behavior at a facility or when using a service may be excluded by from Valley Transit facilities and/or services for up to one (1) calendar year. Examples of illegal conduct include, but are not limited to:
 - a. Crimes Against Life And Bodily Security (Wis. Stat. Ch. 940): Fighting; engaging in physically threatening or intimidating behavior.
 - b. Crimes against Public Peace, Order and Other Interests (Wis. Stat. Ch. 941): Intentionally using a laser pointer to cause a disturbance; recklessly endangering the safety of others by interfering with the operation of a bus.
 - c. Crimes against Property (Wis. Stat. Ch. 943): Use or distribution of counterfeit or stolen fare media; refusing to pay; theft; trespass.
 - d. Crimes against Sexual Morality (Wis. Stat. Ch. 944): Indecent exposure.
 - e. Crimes against Public Peace, Order and Other Interests (Wis. Stat. Ch. 947): Harassment; disorderly conduct.

B. EXCLUSION PROCEDURE

1. Pre-Exclusion Meeting. Prior to a person being excluded from Valley Transit’s facilities or services, the General Manager or designee may request to meet with the person for a Pre-Exclusion Meeting. The goal of the Pre-Exclusion Meeting will be to address the person’s conduct and to try to avoid exclusion. The Pre-Exclusion Meeting is voluntary, but failing to attend may result in exclusion.
2. Exclusion from Facility and Services. If the General Manager or designee determines that a person should be excluded from transit facilities and/or service the following must occur:
 - a. Exclusion/Conditional Exclusion Letter. The General Manager or designee must issue a written “Exclusion Letter” to the person being excluded. If the person is under the age of 18, the letter must also be provided to the person’s parent or legal guardian
 - i. Delivery. The Exclusion Letter must be hand delivered or mailed to the person being excluded by regular and certified mail to the person’s last known address (obtainable from the Police Department or the Legal Services Department).

- ii. Contents. The Exclusion Letter must include: (a) the reason for the exclusion, along with the day and time the behavior that lead to the exclusion occurred; (b) the start and end date of the exclusion, (c) the facilities and/or services to which the exclusion applies, and (d) reconsideration and appeal information.
- iii. Copies. The General Manager or designee must provide a copy of the Exclusion Letter to the Appleton Police Department and must inform all employees who have a need to know about the terms of the exclusion and length of the exclusion.

C. RECONSIDERATION PROCEDURE

- 1. Reconsideration Request. A person excluded may request that the exclusion is modified or discontinued by submitting a Reconsideration Request in writing to the General Manager. If the excluded individual is unable to put their Reconsideration Request in writing, the General Manager or designee must take the request verbally.
 - a. Time. A Reconsideration Request may be made at any time, but no more than one Reconsideration Request may be made by a person in a three (3) month period.
 - b. Contents. A Reconsideration Request must state the reason for the request and may include other written information that is pertinent to the request.
 - c. Response. The General Manager or designee may modify or discontinue the exclusion after reviewing all of the information available to him/her, including the information provided in the Reconsideration Request. If additional information is needed, the General Manager or designee may request a meeting with the excluded individual. If the excluded individual declines to attend the requested meeting, the General Manager or designee must rely only on the information he/she has. The General Manager or designee shall issue a written decision in response to the Reconsideration Request and mail or hand deliver the decision to the excluded individual within seven (7) business days of receiving the Reconsideration Request.

D. APPEAL PROCEDURE

- 1. Appeal to Fox Cities Transit Commission. A person may appeal the Reconsideration Request decision of the General Manager or designee by placing the reason for the appeal in writing and submitting it to the Fox Cities Transit Commission. In the event the individual is unable to put their appeal writing, the Fox Cities Transit Commission Chair or designee shall take the request verbally.
 - a. Time. An appeal may be made at any time once a decision has been made by General Manager or designee regarding a Reconsideration Request.

- b. Appeals Board. The Fox Cities Transit Commission Chair (“Chair”) shall appoint a special Transit Exclusion Appeals Board (“Appeals Board”) consisting of three (3) members of the Fox Valley Transit Commission, chosen at the discretion of the Chair or the Chair’s designee.
- c. Hearing. The Appeals Board shall hold a hearing within fifteen (15) calendar days after the appeal request was received by the Chair or designee.
 - i. Notice. Notice of the Appeals Board hearing, including a statement of the time, place and nature of the hearing, shall be mailed or hand delivered to both the appellant and the General Manager or designee at least ten (10) calendar days prior to the hearing.
 - ii. Attendance. In the event the appellant is unable to attend the Appeals Board hearing, he/she must immediately notify the Chair or designee. In the case of a documented emergency, such as a medical emergency or weather emergency, the hearing will be rescheduled. In cases not involving emergencies, the hearing will be rescheduled at the discretion of the Chair.
 - iii. Hearing Procedure. The Chair shall conduct the hearing and shall follow the Conduct of Hearing provided in Wisconsin Statute § 68.11(2), for municipal administrative proceedings. The appellant may be represented by counsel, may present evidence, and may call and examine witnesses and cross-examine witnesses. The hearing shall be recorded and kept pursuant to record retention laws.
 - iv. Finding. Based on testimony and the evidence in the record, the Appeals Board shall have the power to affirm, reverse or amend the terms of the exclusion based on whether it is more probable than not that the appellant engaged in the conduct which was the basis for the exclusion. The Appeals Board shall the make their decision based on a majority vote. The decision shall be a final determination for the purposes of judicial review.

E. EMPLOYEE SAFETY.

Nothing contained in this policy shall be interpreted to mean that an employee cannot take whatever reasonable measures are necessary to protect him or herself or the safety of others in the event of an emergency during the course of his/her duties, including calling the police or requesting assistance from a supervisor..

F. POSTING RULES OF CONDUCT

A copy of this policy shall be placed on Valley Transit’s website. Printed versions of this

policy will also be available at Valley Transit's office, located at 801 South Whitman Avenue, Appleton, WI. An abbreviated version of the policy, titled "Valley Transit's Rules of Conduct" will be posted in a visible location in the Valley Transit center and on each Valley Transit owned bus.