

BEFORE THE BOARD OF THE SOUTH CLACKAMAS TRANSPORTATION DISTRICT

An Ordinance Instituting Regulations)
Governing Conduct on District Property) ORDINANCE NO. 4
And Repealing Ordinance 3)

WHEREAS, the District Board finds that misconduct by passengers either on District Vehicles or at District Bus Stops can annoy other passengers or Vehicle Operators and impair the safe operation of District Vehicles, causing danger to the travelling public; and

WHEREAS, the District Board wishes to grant authority to peace officers, Vehicle Operators and District employees, to take immediate action to prevent future occurrence of such misconduct; and

WHEREAS, the District Board wishes to put in place a process where those excluded from District Vehicles may appeal such exclusion to an objective hearing body; now, therefore:

THE BOARD OF DIRECTORS OF THE SOUTH CLACKAMAS TRANSPORTATION DISTRICT ORDAINS:

Section I. Purpose. For the safety, convenience and comfort of the District’s passengers and Vehicle Operators, it is necessary to establish rules and regulations governing conduct on District Vehicles.

Section II. Definitions. As used in this ordinance, unless the context requires otherwise:

A. "Assistance Animal" means: (i) A dog guide, hearing ear dog, and any animal trained to assist a person with a physical impairment (as defined by ORS 346.680(5)) in one or more daily life activities including, but not limited to, pulling a wheelchair, fetching dropped items, and balance work, or (ii) A dog or miniature horse that is individually trained to do work or perform tasks for people with disabilities (within the meaning of the Americans with Disabilities Act).

B. "Bus Stop" means the area immediately surrounding any sign indicating a District fixed route service stop, including but not limited to the area within any Bus Passenger Shelter.

C. "Bus Passenger Shelter" means a structure with a full or partial roof, supported by a two, three or four-sided construction, with or without seating, located within a Bus Stop.

D. "District" means South Clackamas Transportation District.

E. "District Vehicle" includes a bus, van or other vehicle used to transport passengers, which is owned or operated by or on behalf of the District.

F. "Emergency" means an on-board District Vehicle fire, actual or threatened serious physical injury to persons, or any apparently urgent medical need.

G. "Peace Officer" includes any municipal, county, or state police officer, sheriff, constable, marshal, or investigator of the Criminal Justice Division of the Oregon Department of Justice, and such other persons as may be designated by law.

H. "Vehicle Operator" means any person who is responsible for the operation of a District Vehicle, including a District contractor for that purpose and his or her employees.

Section III. Regulations.

A. Elderly and Disabled Seating. No person shall fail to vacate seats reserved on a District Vehicle for the disabled and those qualified for senior citizen (honored citizen) discount transit fares, when requested to do so by a peace officer, District employee, or Vehicle Operator.

B. Smoking Prohibited. No person shall smoke tobacco or any other substance, or shall carry any lighted or smoldering substance, in any form, aboard a District Vehicle.

C. Food and Beverages. No person shall bring or carry aboard a District Vehicle food or beverages in open containers.

D. Radios. No person, except a peace officer, fire fighter, District employee, Vehicle Operator, or emergency response professional, in the course of employment shall operate a radio, other audio device, or musical instrument aboard any District Vehicle or in or upon any Bus Passenger Shelter, unless the only sound produced by such item is emitted by a personal listening attachment (earphone) audible only to the person carrying the device producing the sound.

E. Animals. No person shall bring or carry aboard a District Vehicle any animal not housed in an enclosed carrying container, except that a person with a physical impairment, person with a disability, or an Assistance Animal trainer, may bring or carry aboard an Assistance Animal, so long as the person or trainer controls the behavior of the animal.

F. Carriages and Strollers. No person shall bring or carry aboard a District Vehicle a carriage or stroller unless such item is folded and unoccupied. Carriages or strollers must remain folded while aboard the District Vehicle.

G. Flammable Substances. No person shall bring or carry aboard a District Vehicle any flammable substance, except for matches and cigarette lighters.

H. Weapons. No person, except a peace officer in the performance of official duty, a member of the military in the performance of official duty, or a person licensed to carry a concealed handgun shall bring or carry aboard a District Vehicle any loaded firearm, knife (except a folding knife with a blade less than 3-1/2 inches in length), any explosive device or material, or any other weapon.

I. Disorderly Conduct. No person shall, with the intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof:

1. Engage in fighting, or violent, tumultuous, or threatening behavior within any District Vehicle, or Bus Stop; or
2. Make excessive and unnecessary noise within any District Vehicle; or
3. Obstruct the free movement of passengers within any District Vehicle or Bus Stop; or
4. Interfere with the operation or movement of a District Vehicle; or
5. Create a hazardous or physically offensive condition within a District Vehicle or Bus Stop by any act which the person is not licensed or privileged to do.

J. Canvassing/Solicitation. No person shall sell or distribute anything, solicit for any purpose, or canvass to collect money, aboard any District Vehicle unless authorized in writing by the District Manager or his or her designee.

K. Packages. No person shall bring or carry aboard a District Vehicle any package or article of a size which will block any aisle or stairway on the vehicle.

L. Littering. No person shall discard or deposit any rubbish, trash, debris, or offensive substance in or upon a District Vehicle or Bus Stop. No person shall spit, defecate, or urinate in or upon a District Vehicle or Bus Stop.

M. Emergency Stop Device. No person shall activate the "emergency stop" device of the District Vehicle in the absence of an emergency.

N. Signs. No person shall mutilate, deface or destroy any sign, notice or advertisement posted by the District or located on any District Vehicle, Bus Stop, or any other District property.

O. Posting Notices. No person shall place, permit or cause to be placed any notice or advertisement upon any District Vehicle or Bus Stop, without first obtaining written permission of the District Manager or his or her designee.

P. Safety. No person shall:

1. Extend any portion of his or her body through any door or window of a District Vehicle while it is in motion;
2. In any manner hang onto, or attach himself or herself to, any exterior part of a District Vehicle while the vehicle is resting or in motion;
3. Ride a skateboard or roller skates upon a District Vehicle or Bus Stop;
4. Abandon a grocery cart in a Bus Stop;
5. With the exception of a peace officer in the course of employment, knowingly throw an object at or discharge a bow and arrow, air rifle, rifle, gun, revolver

or other firearm at a District Vehicle or Bus Stop, or any person on a District Vehicle or at a Bus Stop.

6. Ride a bicycle upon a District Vehicle, except peace officers and security personnel authorized by the District.

Q. Damaging District Property. No person shall damage, destroy, interfere with, or obstruct in any manner, the property, services or facilities of the District.

R. Use of Bus Stop. No person shall occupy or use a Bus Stop except for boarding, disembarking or waiting for a District Vehicle.

S. Gambling. No person shall engage in gambling, or solicit others to engage in gambling, aboard any District Vehicle or in a Bus Stop, in violation of ORS 167.117 to 167.162.

T. Criminal Activity. No person shall engage in activity prohibited by any state, county, or municipal criminal law of Oregon while on a District Vehicle or at a Bus Stop.

U. Possession of Un-punched Transfer. No person shall, without proper authority, possess an un-punched District passenger transfer, nor shall any person tender a transfer as proof of fare payment if the transfer was not furnished to that person by a District employee or Vehicle Operator. Possession of any un-punched District passenger transfer by any person whose possession of the transfer is not in the course and scope of employment as a District employee or Vehicle Operator shall be prima face evidence that the transfer is stolen and possessed without proper authority.

V. Wheelchair Accessibility. Notwithstanding Paragraph A of this section, no ambulatory person, including a disabled person or an honored citizen, shall fail to vacate a seat for a person required to use a wheelchair, when requested to move by a peace officer, District employee or Vehicle Operator.

W. Alcoholic Beverage. No person shall possess an open container of alcoholic beverage on a District Vehicle or Bus Stop, unless authorized by the District.

X. Bicycles. Notwithstanding Subsection K, the District Manager shall promulgate administrative rules allowing the limited use of defined bicycles on District Vehicles; no person shall bring aboard or possess a bicycle on a District Vehicle in violation of the District administrative rules.

Section IV. Exclusions.

A. In addition to the other measures provided for violation of this ordinance or the laws of the state of Oregon, any peace officer, District employee or Vehicle Operator may exclude any person who violates any provision of this ordinance or any law of the State of Oregon while on a District Vehicle or at a Bus Stop from all District Vehicles pending administrative review of the matter as set out in this section.

B. Written notice signed by the issuing party shall be given to a person excluded from District Vehicles. This notice shall specify:

1. The name and address of the person excluded;
2. The reason(s) for the exclusion;
3. The consequences for failure to obey the exclusion; and
4. The process for administrative review of the exclusion.

Exclusion shall commence immediately upon delivery of the notice to the excluded person.

C. Any order excluding a person from District Vehicles shall be subject to administrative review. Where the excluded person has not cooperated in providing information necessary to complete the notice, then he or she has the burden to contact the District Manager to arrange the administrative review process. Where the excluded person has cooperated in providing information necessary to complete the notice, the District Manager shall, by certified mail, notify the person of this process within five (5) days of the exclusion order.

D. The process for administrative review of an order excluding a person from District Vehicles shall proceed as follows:

1. Within ten (10) days of receipt of notification of the process for administrative review, the excluded person must request either a hearing or written review without a hearing. Failure to make a request will result in written review without a hearing.
2. If the excluded person requests a hearing, a public hearing will be conducted by the District Manager within ten (10) days after receipt of the request, and the District Manager will render a decision within ten (10) days after the close of the hearing. The order of the hearing shall be as follows: presentation of documentation and testimony supporting the exclusion, followed by presentation of documentation and testimony opposing the exclusion. The District Manager may question witnesses and review all documentation referred to by the witnesses. There shall be no continuance or reopening of the hearing. A tape recording will be made of the hearing which will be made available to the appellant upon the appellant paying the cost of reproducing the tape recording.
3. The record for review shall contain a copy of the exclusion notice, a statement of the excluded person setting forth the reason that the exclusion is invalid or otherwise improper, and any hearing record. The District Manager shall render a decision not later than ten (10) days after completion of the record. The District Manager shall, based upon this record, make findings of fact as to the incident which led to the exclusion notice. He or she shall determine the length of the exclusion based upon these factual findings and the guidelines of Subsection E of this section.

E. The following are guidelines for the length of exclusions from District Vehicles. These guidelines are advisory only. The determination of the District Manager as to the length of the exclusion shall be final.

1. A violation of this ordinance which intentionally or recklessly endangers the safety of any person or persons shall be grounds for permanent exclusion.

2. A violation of this ordinance which negligently endangers the safety of any person or persons shall be grounds for exclusion for up to one (1) year.

3. A violation of this ordinance which intentionally or recklessly causes annoyance to any other person or persons shall be grounds for exclusion of up to four (4) months.

4. A violation of this ordinance which negligently causes annoyance to any other person or persons shall be grounds for exclusion of up to one (1) month.

F. A person excluded under this section may not enter or remain upon any District Vehicle from which said person is excluded during the period of exclusion. An excluded person who enters or remains upon any District Vehicle is a trespasser and may be arrested and prosecuted for the crime of Criminal Trespass in the Second Degree (ORS 164.245).

Section V. Enforcement.

A. Any peace officer, District employee, or Vehicle Operator, has the authority to refuse entrance on a District Vehicle, require departure from a District Vehicle, or to require a seating change, of any person who violates any provision of this ordinance, regardless of location and regardless of presentation of pass, transfer, ticket, or payment of fare.

B. Any person who violates any provision of this ordinance in addition to other penalties provided by law, commits an infraction as defined in ORS 153.110 to 153.310 and upon conviction may be punished by a fine of not more than \$250.

C. All peace officers of the State of Oregon are authorized to issue citations, as provided by Oregon law, to any person who violates any provision of this ordinance.

Section VI. Construction. Nothing herein is intended to compromise or waive the right to enforce concurrently, or in the alternative, other remedies available pursuant to the Oregon Criminal Codes.

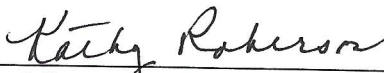
Section VII. Severability. Should any provision of this ordinance be deemed unlawful by any federal or state court or administrative body, the remaining provisions shall retain their full force and effect.

Section VIII. Repealer. The provisions of this ordinance superseding those of Ordinance 3, Ordinance 3 is hereby repealed.

Section IX. Emergency. An emergency being declared to exist, this ordinance is affective upon adoption.

ADOPTED by a 5-0 vote this 24 day of May, 2012.

**BOARD OF DIRECTORS
SOUTH CLACKAMAS TRANSPORTATION DISTRICT**



Presiding Officer

ATTEST: 
