

AMENDMENT NO. 01

ORDINANCE NO. 001

Passenger Code of Conduct

[Administrative Penalties and Fees for Fare Evasion or Passenger Misconduct Offenses.]

Amendment to Sections 100, 100.3 and inclusion of Section 100.9 to ordinance imposing administrative penalties and fees for certain types of fare evasion and passenger misconduct offenses instead of criminal penalties, and establishing enforcement procedures thereto pursuant to the authority granted San Joaquin Regional Transit District (RTD) by the California Penal Code Section 640(e) and the California Public Utilities Code Section 99580 et seq.

BE IT ENACTED by the board of directors of San Joaquin Regional Transit District:

Section 1. The Passenger Code of Conduct is hereby amended to read as follows:

ARTICLE 1: GENERAL PROVISIONS

SEC. 1. Title. This ordinance is entitled the Passenger Code of Conduct.

SEC. 2. Purpose. The purpose of this ordinance is to better foster a respectful environment and passenger safety for the riders of RTD. Fare evasion and other passenger misconduct occurring within the RTD system have contributed to a loss of fare revenue and a potential perception of an unsafe environment. California state law provides for criminal penalties for fare evasion or passenger misconduct offenses. RTD views passenger safety and a respectful environment as essential to providing a beneficial service to its ridership. To better foster such an environment, RTD believes that the specter of criminal penalty should be removed and replaced with a fair and just administrative process.

SEC. 3. Definitions. As used in this ordinance, the following terms have the following meanings:

- (a) "Fare" means the monetary charges established by RTD for the use of its facilities and vehicles.
- (b) "Graffiti" means any unauthorized inscription, word, figure mark, or design that is written, marked, etched, scratched, drawn, painted, or affixed on RTD facilities or vehicles.
- (c) "Loitering" means unnecessary lingering in RTD facilities or vehicles or other locations when it interferes with an RTD facility or vehicle or use thereof.
- (d) "Passenger", "patron", "customer" and "rider" mean any person, in or on, using or attempting to access, an RTD facility or vehicle.
- (e) "Person" includes an individual, firm, partnership, corporation, association, or company.
- (f) "RTD" means the San Joaquin County Regional Transit District and their contractors.
- (g) "RTD facility" means all property and equipment, including rights of way and related signals, fuel, communication systems, ventilation systems, power plants, cameras, signs, loudspeakers, fare collectors or registers, sound walls, stations, vacant parcels, bike paths, terminals, platforms, plazas, waiting areas, art work, storage yards, depots, repair and maintenance shops, yards, offices, parking areas, and other real estate or personal property owned, leased or licensed by RTD, used for any RTD activity, or authorized to be located on RTD property.
- (h) "RTD representative" means an RTD security officer, operator, fare inspector, or other authorized RTD employee or contractor.
- (i) "RTD system" means all RTD facilities and vehicles, collectively.
- (j) "RTD vehicle" means an RTD bus, car, or other vehicle owned, operated, or used by RTD or its contractors transporting RTD representatives or passengers.
- (k) "Sound equipment" means a radio, receiver, communication device, phonograph, television, musical instrument, tape recorder, cassette player, CD player, MP3 player, DVD player, game, speaker system, audio system, sound amplifier, or other device that plays music or emits noise. Sound equipment does not include assistive hearing devices for persons who have impaired hearing.

ARTICLE 2: PROHIBITED CONDUCT

SEC. 100. Any person who engages in any of the conduct set forth shall be subject to the issuance of a notice of violation and imposition of an administrative penalty. A notice of violation may be issued by a peace officer, fare inspector, security officer, or any RTD representative designated by RTD's General Manager/CEO, or her designated representative, to enforce this ordinance. This ordinance applies with equal force to any person who aids or abets in any of the prohibited conduct set forth. The conduct prohibited on or in an RTD facility or vehicle is as follows:

SEC. 100.1. Fare and Ticket Violations

- (a) Evasion of the payment of a fare of the RTD system. Fare evasion includes entering an enclosed area of an RTD facility beyond posted signs prohibiting entrance without obtaining valid fare, in addition to entering an RTD vehicle without valid fare.
- (b) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare of the RTD system.
- (c) Unauthorized use of a discount ticket or failure to present, upon request by RTD or within 72 hours thereafter, acceptable proof of identification or eligibility to use a discount ticket.

SEC. 100.2. Disorderly Conduct

- (a) Expectorating upon an RTD facility or vehicle.
- (b) Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in an RTD facility or vehicle.
- (c) Throwing any object from a vehicle or extending any portion of the body through any window or door of a vehicle in a manner that may cause harm or injury.
- (d) Urinating or defecating in an RTD facility or vehicle, except in a lavatory. This prohibition shall not apply to a person who cannot comply as a result of a disability, age, or medical condition.
- (e) Willfully tampering with, removing, displacing, injuring, defacing, marking with graffiti or inscribed marks, or destroying any part of any RTD facility or vehicle.
- (f) Loitering on or in an RTD facility or vehicle.

SEC. 100.3. Disturbing Others

- (a) Playing *unreasonably loud* sound equipment on or in an RTD facility or vehicle.
- (b) Willfully disturbing others on or in an RTD facility or vehicle by engaging in boisterous or unruly behavior.
- (c) Disturbing another person on or in an RTD facility or vehicle by loud or unreasonable noise, including cellular phones.
- (d) Willfully blocking the free movement of another person in an RTD facility or vehicle. This prohibition shall not be interpreted to affect any lawful activities permitted or First Amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.
- (e) *Failing to comply with the warning of a peace officer, fare inspector, security officer, or other designated representative of RTD when engaged in the enforcement of this ordinance related to disturbing another person by loud or unreasonable noise.*

SEC. 100.4. False Identification

- (a) Knowingly providing false identification to a peace officer, fare inspector, security officer, or other designated representative of RTD when engaged in the enforcement of this ordinance.

SEC. 100.5. Skateboards and Bicycles

- (a) Skateboarding, roller skating, bicycle riding, or roller blading in an RTD facility, including a parking structure, or in an RTD vehicle. This prohibition shall not apply to an activity that is necessary for utilization of an RTD facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard an RTD vehicle, if that activity is conducted with RTD permission in a manner that does not interfere with the safety of the bicyclist or other patrons of RTD.

SEC. 100.6. Public Decorum

- (a) Failing to wear a shirt, pants or skirt, and shoes in a manner respectful of others or in a manner unreasonably interfering with the use, operation, or enjoyment of others of an RTD facility or vehicle.

SEC. 100.7. Smoking and Eating

- (a) Smoking, eating, or drinking in or on an RTD facility or vehicle in those areas where those activities are prohibited by RTD.

SEC. 100.8. Solicitation

- (a) Sale or peddling of any goods, merchandise, property, or services of any kind whatsoever on an RTD facility or vehicle without the express written consent of RTD or its duly authorized representatives.

SEC. 100.9. Reserved Seating

- (a) *Failing to yield seating reserved for an elderly or disabled person.*

ARTICLE 3: ENFORCEMENT

SEC. 200. Initial Review. Within 21 days from the issuance to a person of a notice of violation of any conduct prohibited under this ordinance, the person may request an initial review of the notice of violation issued by RTD. The request may be made, in accordance with procedures established by RTD, by telephone, in writing, or in person. There shall be no charge for this review. If, following the initial review, RTD is satisfied that the violation did not occur or that extenuating circumstances make dismissal of the notice of violation appropriate in the interests of justice, RTD shall cancel the notice of violation. RTD shall notify, in writing, the person requesting the review of the results of the initial review. If the notice of violation is not dismissed, RTD shall include a reason for that denial, notification of the ability to request an administrative hearing, and notice of the procedure for waiving prepayment of penalty based upon inability to pay.

SEC. 201. Request for Administrative Hearing. If the person is not satisfied with the results of the initial review, the person may request an administrative hearing no later than 21 days following the mailing of the results of the initial review. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit the amount due under the notice of violation. The person shall be allowed to request an administrative hearing without payment of the amount due upon satisfactory proof of inability to pay. The administrative hearing shall be held within 90 days following the receipt of the request for administrative hearing. The person requesting the hearing may request one continuance, not to exceed 21 days.

SEC. 202. Administrative Hearing. The administrative hearing process shall include all of the following:

- (a) The person requesting a hearing shall have the choice of a hearing by mail or in-person. An in-person hearing shall be conducted within the jurisdiction of RTD at a location designated by RTD. The hearing shall provide an independent, objective, fair, and impartial review of the contested violation(s).
- (b) The hearing shall be conducted before a hearing officer designated to conduct the hearing by and in accordance with procedures established by RTD's General Manager/CEO, or her designated representative. In addition to any other requirements of employment, a hearing officer shall demonstrate those qualifications, training, and objectivity prescribed by RTD's General Manager/CEO, or her designated representative. The hearing officer's continued employment, performance evaluation, compensation and benefits shall not be directly or indirectly linked to the amount of fare evasion or passenger conduct violation penalties imposed by the hearing officer.
- (c) The peace officer, fare inspector, security officer, or RTD representative who issued the notice of violation shall not be required to participate in an administrative hearing. RTD shall not be required to produce any evidence other than the notice of violation. The notice of violation, in proper form, shall be prima facie evidence of the violation.
- (d) Following a determination by the hearing officer that a person committed the violation, the hearing officer may allow payment of the violation penalty in installments or deferred payment if the person provides satisfactory evidence of an inability to pay the penalty in full. The decision of the hearing officer shall include reasons in support of the decision rendered.
- (e) The hearing officer's decision following the administrative hearing may be personally delivered to the person or sent by first class mail.

SEC. 203. Appeal. Within 30 days after mailing or personal delivery of the decision of the administrative hearing, the person may seek review by filing an appeal to be heard by the superior court. This appeal shall be heard de novo, except that the

contents of the administrative hearing file shall be received in evidence. A copy of the notice of violation shall be admitted into evidence as prima facie evidence of the facts. The appeal shall be conducted as otherwise provided by law.

SEC. 204. Penalties. Upon determination that a person committed a violation under which a notice of violation was issued, an administrative penalty shall be imposed that person. RTD shall adopt a penalty schedule of administrative penalties, and any additional procedures in furtherance of the implementation and enforcement of this ordinance. In setting a penalty schedule, RTD shall not establish penalty amounts that exceed the maximum fine amount set forth in California Penal Code Section 640. The schedule and any procedures deemed necessary shall be subject to the approval of the RTD General Manager/CEO, and shall be reviewed, revised, or amended from time to time.

PASSED AND ENACTED on this 19 day of February, 2016, by the following vote of the RTD Board of Directors:

AYES: Restuccia, Giovanetti, Fong, Singh

NOES: None

ABSENT: Bauer