

IN THE BOARD OF COMMISSIONERS OF
SUNSET EMPIRE TRANSPORTATION DISTRICT

ORDINANCE NO. 2017-01) A POLICE ORDINANCE
) GOVERNING CONDUCT IN THE
) USE OF DISTRICT FACILITIES

The Board of Commissioners of Sunset Empire Transportation District does hereby Ordain and Decree the following Ordinance.

1. PURPOSE: To facilitate the purposes set forth in ORS Chapter 267, and for the safety, convenience, and comfort of District Passengers and for the protection, preservation, use and enjoyment of District property, it is necessary to establish the following rules and regulations relating to the use of District facilities and providing remedies for violations thereof.

2. DEFINITIONS: As used in this Police Ordinance, unless the context requires otherwise.

2.1 "District" means the Sunset Empire Transportation District, a municipal corporation.

2.2 "District Facility" means all real property, improvements, structures, and personal property owned, possessed or occupied by the District, leased or licensed by the District, or devoted on an exclusive or nonexclusive basis to the use of the District and includes without limitation a transit transfer station, bus stop, passenger shelter, passenger waiting area(s), information center, parking lot, park and ride lot, and any other property, equipment, improvements or buildings under the ownership, possession, custody or control of the District, including adjoining walkways, stairways, ramps and elevators.

2.3 "District Vehicle" includes without limitation a bus, van, automobile or other vehicle used to transport passengers and owned or operated by the District.

2.4 "Emergency" means a fire, actual or threatened serious physical injury to person, or any apparently urgent medical need occurring on or in a District Facility or aboard a District Vehicle.

2.5 "Passenger Waiting Room" means an indoor Transit Facility with chairs or benches provided by the District for passengers to wait for a District Vehicle.

2.6 "Peace Officer" means a sheriff, constable, marshal, municipal police officer, member of the Oregon State Police or investigator of the Criminal Justice Division of the Oregon Department of Justice.

2.7 "Supervisor" means the Executive Director, the Transit Center Manager, the Operations Manager or any Operations Supervisor during their employment in that capacity by the District.

2.8 "Operator" means a District employee responsible for operating any District Vehicle.

2.9 "Passenger" means a person who holds a valid fare and is aboard a District Vehicle or waiting for the next available District Vehicle or connecting service vehicle to such person's destination, or a person who enters a District Facility with the intent to utilize a valid fare for transportation on the next available District Vehicle or connecting service vehicle for such person's destination.

2.10 "Habitual Offender" is a person classified as a habitual offender upon the person's third exclusion during a thirty-six (36) month period or upon the conviction for a felonious act committed on or in District facilities or aboard a District Vehicle.

2.11 "Service Animal" means any animal used by a person who requires the assistance of such animal to facilitate that person's life functions, including but not limited to seeing or hearing and includes animals in training for such use.

2.12 "Exclusion" is a sanction administered to an individual for violations of this ordinance. An exclusion prohibits that individual from entering or remaining on or in a designated District Facility or on a District Vehicle at a specific location for a specified duration.

2.13 "Solicit" is to try to obtain by entreaty, persuasion, or formal application; to petition persistently; to entice into evil or illegal action; to approach with an offer of sexual services; to make solicitation or petition for something desired and may include: Panhandling, begging, leafleting, gathering petitions, charity solicitations or selling.

3. REGULATIONS

3.1 Smoking Prohibited: No person shall smoke or vape tobacco, marijuana, or any other substance, or shall carry any lighted or smoldering substance, in any form, on or in a District Facility (other than at a bus stop where there is no shelter) or aboard a District Vehicle or in any other area designated as a non-smoking area.

3.2 Food and Beverages: No person shall bring or carry aboard a District Vehicle food in open containers or beverages in containers that are not sealed and impermeable or will otherwise not spill their contents when dropped or tipped over.

3.3 Radios: No person shall operate a radio, scanner, other audio device, or musical instrument aboard any District Vehicle or any District Facility, 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. This rule does not apply to a Peace Officer, firefighter, District employee, or emergency response professional, in the course of employment.

3.4 Prohibited Carry-on Items:

3.4.1 No person shall bring or carry aboard a District Vehicle any animal not housed in an enclosed carrying container designed to carry the animal. A Disabled Person or a Service Animal trainer may bring or carry aboard a Service Animal. A Peace Officer may bring or carry aboard a certified police canine animal.

3.4.2 Collapsible type shopping carts may be brought or carried aboard a District Vehicle. When empty, the cart must be collapsed and kept with the passenger at their seat. When not empty, the cart must be stored behind a seat so that it cannot roll forward when the bus stops. The cart may not block any aisle or stairway.

3.4.3 No person shall bring or carry in or on any District Facility any flammable, combustible, explosive or corrosive (as those terms are defined in ORS 453.005) substance or device, except matches and cigarette lighters or factory-sealed household products. No person shall light any match or cigarette lighter or ignite any flame or ember on board a District Vehicle.

3.5 Criminal Conduct within or affecting District Facilities: It shall be a violation of this Ordinance for any person to engage in conduct in violation of any of the following laws if such conduct occurs within or in any way affects any District Facility:

- 3.5.1 Initiating a false report in violation of ORS 162.375.
 - 3.5.2 Giving false information in violation of ORS 162.385.
 - 3.5.3 Assault in any degree in violation of ORS 163.160 through 163.185.
 - 3.5.4 Menacing in violation of ORS 163.190.
 - 3.5.5 Reckless endangering in violation of ORS 163.195.
 - 3.5.6 Public indecency in violation of ORS 163.465.
 - 3.5.7 Trespass in violation of ORS 164.245.
 - 3.5.8 Disorderly conduct in violation of ORS 166.025.
 - 3.5.9 Interfering with public transportation in violation of ORS 166.116.
 - 3.5.10 Unlawful use of weapon in violation of ORS 166.220.
 - 3.5.11 Concealed weapon in violation of ORS 166.240.
 - 3.5.12 Possession of dangerous weapon in a public building in violation of ORS 166.370.
 - 3.5.13 Manufacture or delivery of controlled substances in violation of ORS 475.752.
- 3.6 Littering: No person shall discard or deposit any rubbish, trash, debris, and garbage or refuse substance in or on a District Facility or aboard a District Vehicle, except in a proper waste disposal receptacle. No person shall spit, defecate, or urinate in or on a District Facility, except a toilet, or aboard any District Vehicle.
- 3.7 Posting Notices: No person shall place, permit or cause to be placed any notice or advertisement upon any District Facility, or upon any District Vehicle or upon any other vehicle on a District Facility, without

first obtaining written permission of the Executive Director or his/her designee.

3.8 Damage to District Property: No person shall, without the permission or consent of the District, take, appropriate, obtain, withhold, damage, mutilate, deface, remove, alter or destroy any District property, District Facility, District Vehicle, or any sign, notice or advertisement posted by the District or located in or on any District Facility or District Vehicle.

3.9 Safety: No person shall:

3.9.1 Extend any portion of his/her body through any door or window of a District Vehicle while it is in motion;

3.9.2 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;

3.9.3 Interfere, in any manner, with the safe operation or movement of any District Vehicle;

3.9.4 Stop or park a vehicle in any roadway in such a manner as to interfere with the passage of a District Vehicle, or fail to yield the right of way to a District Vehicle when required by ORS 811.167;

3.9.5 Ride a skateboard or roller-skates on or in a District Facility;

3.9.6 Ride a bicycle on or in a District Facility except a Peace Officer or District employee in the performance of their duties.

3.9.7 Abandon a grocery cart upon a District Facility;

3.9.8 Be present on or in any District Facility or aboard a District Vehicle unless the person is wearing shoes and clothing, including a shirt, except infants being held or passengers confined to a wheelchair. Bandages or dressings must cover any unhealed broken skin or wounds which may transmit communicable disease;

3.9.9 Throw, toss or kick any ball, disc or other object on or in a District Facility or aboard any District Vehicle;

3.9.10 Climb upon any bus stop sign, or climb, stand, or lie upon any bench, passenger shelter, garbage container or planter that is under the ownership, possession, custody or control of the District.

3.9.11 Bring or carry aboard a District Vehicle any package, carrier, container or article of a size which cannot be safely stowed without creating a safety hazard by blocking any aisle or stairway on the vehicle;

3.9.12 Attract a public nuisance or create a health hazard on or in a District Facility by dropping food items that may attract fowl or vermin such as rats, pigeons or cockroaches that may be destructive, annoying, or harmful to health, except for disposal of such food items in a proper waste disposal receptacle.

3.10 No Shoes on District Furnishings: No person shall place their shoes on seat cushions or furnishings on or in a District Facility or aboard a District Vehicle.

3.11 District Facilities Purpose: To ensure the safety, security, comfort, and convenience of passengers, District facilities and District Vehicles are intended for the exclusive use of District passengers.

3.11.1 No person shall impede or block the free movement of others within a District Facility or District Vehicle, interfere with the ingress and egress to or from a District Facility or District Vehicles, intimidate or harass others within a District Facility or District Vehicle, or otherwise interfere with the safe and efficient operations of the District.

3.11.2 No person shall occupy or use any District Facility except for the purpose of boarding, disembarking, waiting for a District Vehicle, or conducting District related business.

3.11.3 No person occupying a District Facility for the purpose of waiting to ride a District Vehicle shall fail or refuse to take the next available bus to the person's destination.

3.11.4 No person occupying a District Facility for the purpose of waiting to greet passengers on any arriving District Vehicle, shall fail or refuse to leave the District Facility promptly after arrival of the District Vehicle for which the person is waiting.

3.11.5 No person occupying a District Facility shall fail to identify upon demand to any District employee or representative, the District Vehicle for which the person is waiting.

3.11.6 No person shall sell or distribute anything, solicit for any purpose, or canvass to collect money in or on any District Facility or aboard any District Vehicle unless authorized in writing by the Executive Director or designee pursuant to objective, content neutral standards and administrative procedures which shall be adopted by the Executive Director establishing the reasonable conditions on time, place and manner of activities based upon the magnitude of the interference of the activity upon the safe and efficient operation of the transit system.

3.11.7 No person shall park in parking spaces marked as "Reserved" at the Astoria Transit Center without a valid agreement from the District, between the hours of 8:00AM-6:00PM Monday through Friday. No person shall park in a space marked as "Park and Ride" (for passengers riding on the NW POINT or Connector buses) without a valid 72 hour permit from the District. No person shall park in a non-marked public parking spaces for

more than three hours. No person shall park in a parking spot designated for electric charging of a vehicle that is not engaged in the charging process. No owner or operator of a vehicle shall permit or suffer the vehicle to be abandoned in the Astoria Transit Center parking lot.

3.12 Non-payment of Fare; Misuse of a District Pass; Theft of Services: Non-payment of fare or misuse of a pass is theft of services.

3.12.1 No person shall occupy, ride in or use any District Vehicle unless the person pays the applicable fare or tenders a valid and lawfully acquired District ticket, card or pass.

3.12.2 Passes are non-transferable. No person shall use or attempt to use a District pass or board or ride in a District Vehicle unless the pass was lawfully acquired at an authorized District outlet by or on behalf of that person.

3.12.3 No person shall tender one fare for a round-trip ride from the transit center back to the transit center. Such round-trip requires two fares. Passengers who have a pass may ride round- trip at any time.

3.12.4 : Any District employee or representative may confiscate a bus pass tendered for fare in violation of this section.

3.12.5 Regularly sworn Peace Officers of law enforcement agencies having jurisdiction within the District and the Oregon State Police are exempt from payment of fare when they are in uniform or display police identification or display their badge.

3.13 Repulsive Odors: A person may not be in a District facility or vehicle with an unavoidable grossly repulsive odor so extreme it causes a nuisance, unreasonably interferes with the use, operation, or enjoyment of the District facilities or vehicles for District representatives or patrons, or creates an unsafe condition. Notwithstanding the foregoing, this Subsection shall not apply to persons with odors directly related to a disability or medical condition unless the odor is so severely disruptive that it interferes with the use or operation of the District facility or vehicle by District representatives or patrons, or creates direct threat or an unsafe condition. The District shall not exclude or refuse to provide service to a disabled individual solely because of involuntary behavior that may offend, annoy, or inconvenience others. (As amended 5/23/20)

3.14 Prohibited Alcohol, Cannabis Products and Controlled Substance: No person shall use or possess alcohol or a controlled substance (as defined in ORS 475.005) on or in a District Facility or aboard a District Vehicle, except legally possessed alcoholic beverages that have not been unsealed, legally possessed cannabis products in an amount permitted by ORS Chapter 475B, and legally possessed prescription medication.

3.15 Rules Specific to Astoria Transit Center:

3.15.1 Definitions:

3.15.1.1 "Astoria Transit Center" is the designated transit area and passenger waiting room located within the block bordered by Marine Drive, 9th Street, Astor Street, and 10th Street located in downtown Astoria.

3.15.1.2 "Astoria Transit Center Plaza" is that area outside of the

Transit Center Building that consists of passenger waiting areas, shelters, sidewalks, bike lockers, bus lanes, and parking area.

3.15.2 The Astoria Transit Center Plaza will be closed to the public during non-operating hours, which are 10:PM – 5:45AM. The District Executive Director or Designee shall have the discretion to set, extend or reduce non-operating hours.

3.15.3 No person, other than a Peace Officer, a District employee, or person authorized by the District Executive Director shall be on or in Astoria Transit Center Plaza during non-operating hours.

3.15.4 All non-District Vehicles are barred from the Bus lanes at the Astoria Transit Center at all times, except for emergency vehicles or vehicles permitted by a District Supervisor.

3.15.5 No pedestrian travel shall be permitted within the Astoria Transit Center Plaza except on sidewalks and within marked crosswalks. Jaywalking across any areas provided for vehicle travel or parking within the Astoria Transit Center Plaza is prohibited.

4. ENFORCEMENT:

4.1 Entrance Refusal: Any Peace Officer, District Operator, District Manager, District Supervisor, or others as designated in writing by the Executive Director, has the authority to refuse entrance on or into any District Facility, or aboard a District Vehicle; require departure from a District Facility or District Vehicle; or 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.

4.2 Penalties: Any person who violates any provision of this ordinance, in addition to other penalties provided by law, commits a violation as defined in ORS 153.005 to 153.992 and upon conviction shall be punished by a fine of not more than \$250.

4.3 Authorization: Any Peace Officer of the state of Oregon is authorized to issue citations, as provided by Oregon law, to any person who violates any provision of this ordinance.

5. EXCLUSION FROM SYSTEM

5.1 Exclusion: In addition to other measures provided for violation of this Ordinance, any Peace Officer, District Manager, Operations Supervisor, or others as designated in writing by the Executive Director, may exclude from any part or all of a District Facility or District Vehicles any person who violates any provision of this Ordinance, for a period of time not to exceed ninety (90) days, and may exclude Habitual Offenders for extended exclusion periods as provided.

5.2 Habitual Offenders: Habitual offenders shall be excluded from all District facilities and all District Vehicles or from such portions of District Facilities or District Vehicles, or both, and for such duration of time (up to but not exceeding five years), all as may be determined by the Executive Director. The Executive Director shall adopt, and may modify from time to time, guidelines for determining the appropriate scope and duration of exclusion of Habitual Offenders based on the nature and frequency of their violations or offenses. A person deemed a Habitual Offender may appeal their exclusion through the procedure described in Section 5.5.

5.3 Exclusion Perimeters: A person excluded under this Ordinance may not enter or remain on or in any part of a District Facility or be aboard a District Vehicle from which said person is excluded during the period of exclusion.

5.4 Exclusion Form: Written notice signed by the issuing party shall be given to a person excluded from all or part of a District Facility, which notice shall specify the reason for exclusion, places and duration of exclusion, the consequences for failure to comply with the notice, and notice of appeal rights. Exclusion shall commence immediately upon delivery of the notice to the excluded person.

5.5 Appeal Process: The excluded person may appeal in writing within ten (10) days after the commencement of the exclusion to the Executive Director or designee for de novo review of the exclusion. The appeal may request that the Executive Director or designee rescind or waive the exclusion, alter the places of exclusion or reduce the duration of exclusion. An appeal shall contain a copy of the exclusion notice, a request for a hearing or request for written review without a hearing, and a statement setting forth the reason that the exclusion should be rescinded, altered or reduced. The appeal may include a request that the exclusion be stayed or suspended pending a final decision on the appeal, which request must be supported by a statement of reasons relied upon by the appellant supporting a stay or suspension. A request for a stay or suspension pending final decision shall be denied or approved, in whole or in part, within 2 business days following receipt of the appeal containing the request. The Executive Director or designee shall render a decision no later than ten (10) days after receipt of an appeal unless the appeal requests that a hearing be held. In addition to or in the alternative to an appeal, at any time during the exclusion, an excluded person may petition in writing to the Executive Director or designee for a temporary waiver of the exclusion which may be allowed or denied at the discretion of the Executive Director.

5.6 Appeal Hearing: If the appeal by an excluded person includes a request for a hearing, a public hearing will be conducted by the Executive Director or designee within ten (10) days after the receipt of the appeal and the General Manager or designee will render a decision within fifteen (15) days after the hearing.

5.6.1 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.

5.6.2 The burden of proof of a fact or position rests on the District to establish a violation of this Ordinance.

5.6.3 The Executive Director or designee may question witnesses and review all documentation referred to by the witnesses.

5.6.4 There shall be no continuance or reopening of the hearing.

5.6.5 The hearing shall be electronically recorded.

6. CONSTRUCTION: Nothing herein is intended to compromise or waive the right to enforce concurrently, or in the alternative, other remedies available including without limitation any remedies available pursuant to the Oregon Revised Statutes, city ordinances or any civil remedies. It is the intent of the District that this ordinance shall be liberally construed to effectuate its purpose and policies. Captions are for the convenience of the reader and shall not add to or limit any of the provisions of this ordinance.

7. SEVERABILITY: It is the intent of the District, in the adoption of this ordinance, that if any part of the ordinance is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless;

7.1 The remaining parts are so essentially and inseparably connected which and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted with the unconstitutional or invalid part; or

7.2 The remaining parts, standing alone, are incomplete and incapable of being executed in accordance with the District's intent.

8. EFFECTIVE DATE: This ordinance shall take effect 30 days after its adoption.

THE BOARD OF COMMISSIONERS FOR
SUNSET EMPIRE TRANSPORTATION DISTRICT

Kathy Kleczek, Chairperson

Recording Secretary

First Reading: _____

Second Reading: _____

Effective Date: _____