



Salem Area Mass Transit District

Ordinance 2000-1

- As amended by*
- Ordinance 01-01**
- Ordinance 02-01**
- Ordinance 03-01**
- Ordinance 04-02**

Police Ordinance

The Board of Directors of Salem Area Mass Transit District, Salem, Oregon 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 Salem Area Mass Transit 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 “District Security Officer” means persons certified by the Oregon Department of Public Safety Standards and Training as an Oregon Certified Armed or Unarmed Security Officer who are employees of the District.

2.8 “Supervisor” means the General Manager, the Transit Services Division Manager, the Operations Superintendent or any Operations Supervisor during their employment in that capacity by the District.

2.9 “Operator” means a District employee responsible for operating any District Vehicle.

2.10 “Passenger” means a person who holds a valid fare and is aboard a District Vehicle or waiting for the next available District 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 for such person’s destination.

2.11 “Habitual Offender” is a person classified as a habitual offender upon the person’s fifth 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.

2.12 “Service Animal” means (a) 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; and (b) any animal certified by the District as a therapy animal in accordance with District policies and procedures in effect from time to time regarding therapy animals.

2.13 “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.

2.14 “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 tobacco 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 Security Officer, District employee, or emergency response professional, in the course of employment.

3.4 Prohibited Carry-on Items:

3.4.1 Animals: 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 Deleted.

3.4.3 Shopping Carts: 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.

3.4.4 Flammable or Corrosive Substances: 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 166.115.
- 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 Possession or delivery of controlled substances in violation of ORS 475.992.

3.6 Littering: No person shall discard or deposit any rubbish, trash, debris, 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 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 General Manager 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 Security Officer 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 Canvassing or Solicitation: 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 General Manager or designee pursuant to objective, content neutral standards and administrative procedures which shall be adopted by the General Manager 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 District park and ride facilities may be used by Passengers and others utilizing mass transit services for temporary parking of private passenger motor vehicles between the hours of 5:00 a.m. and 10:15 p.m. No other use of a District park and ride lot is permitted without written authorization from the General Manager or his/her designee. Overnight parking in District park and ride lots is prohibited. No owner or operator of a vehicle shall permit or suffer the vehicle to be abandoned in a District park and ride facility.

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 Applicable fare: 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 Pass: 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 Round Trip: No person shall tender one fare for a round-trip ride from the transit mall back to the transit mall. Such round-trip requires two fares. Passengers who have a pass may ride round-trip at any time.

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

3.12.5 Peace Officer Exemption: Regularly sworn Peace Officers of law enforcement agencies having jurisdiction within the Salem Area Mass Transit 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: No person shall enter or remain on or in District facilities or aboard a District Vehicle if the person, the person's clothing, or

anything in the person's possession emits a grossly repulsive odor that is unavoidable by other District passengers or employees in the facilities or aboard the District Vehicles and which causes a nuisance or extreme discomfort to District passengers or employees.

3.14 Prohibited Alcohol 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 and legally possessed prescription medication.

3.15 Prohibited Gang Activities:

3.15.1 Recitals: Gang activity incites violence by persons from rival criminal gangs, which increasingly has resulted in injury to innocent bystanders. Gang activity on or in any District Facility or aboard any District Vehicle therefore can pose a clear and present danger to the safety and well being of patrons, employees, security officers or law enforcement personnel.

3.15.2 Prohibited Gang Activities: Gang activities are prohibited on or in any District Facility or aboard any District Vehicle. District trained personnel designated by the General Manager, District Security Officers or Peace Officers who observe prohibited gang activities may ask the person or persons exhibiting gang activity to discontinue the activity and cease visual or verbal identification of themselves as gang members. Failure to comply with the above will result in the person being excluded from the premises pursuant to the guidelines of District ordinances and any applicable administrative rules, policies and procedures.

3.15.3 Definitions:

3.15.3.1 Gang Activities: The use of hand signs or language, the content and context of which clearly indicates gang affiliation, by either (a) a gang affiliate or (b) one who otherwise displays clothes, clothing items, clothing with gang graffiti or insignia, items with gang graffiti or insignia, jewelry, or tattoos unique to gang affiliation.

3.15.3.2 Gang: A gang is an ongoing organization, association, or group of three or more persons, whether formal or informal which has as a primary purpose the commission of violent street or drug related crimes which may include, robbery, homicide, or manslaughter, the sale or possession for sale of narcotics, and the possession of weapons for the use of

creating injury or fear to others, including rival gang members. Gangs are also known to commit crimes of arson, witness intimidation, extortion, assault or a pattern of property crimes facilitated by efforts of gang members.

3.15.3.3 Gang Affiliate: The designation given to an individual who exhibits one or more of the following behaviors:

3.15.3.3.1. Admits or asserts affiliation with a gang to the police, security or member of another organization charged with security or law enforcement duties.

3.15.3.3.2. Has been identified as an individual affiliated with a gang based upon reliable information, an informant, or a law enforcement agency including out-of-state or federal agencies.

3.15.3.3.3. Uses a gang name, a common identifying sign or symbol, or has an identifiable leadership.

3.15.3.3.4. Has a high rate of interaction among members of a gang to the exclusion of others.

3.16 Specific to Courthouse Square:

3.16.1 Courthouse Square Transit Mall will be closed to the public during non-operating hours. "Courthouse Square Transit Mall" is the designated transit mall area and passenger waiting room located within the block bordered by Court Street, High Street, Chemeketa Street and Church Street in downtown Salem.

3.16.2 The General Manger or Designee shall have the discretion to set, extend or reduce non-operating hours.

3.16.3 No person, other than a Peace Officer, District Security Officer or person authorized by the District General Manager shall be on or in Courthouse Square Transit Mall during non-operating hours.

3.16.4 Non-District Vehicles Prohibited: All non-District Vehicles are barred from Courthouse Square Transit Mall at all times, except for emergency vehicles or vehicles permitted by a District Supervisor or District Security Officer.

3.16.5 Pedestrian Travel: No pedestrian travel shall be permitted within the Courthouse Square Transit Mall except on sidewalks and

within marked crosswalks. Jaywalking across any areas provided for vehicle travel or parking within the Courthouse Square Transit Mall is prohibited.

4. ENFORCEMENT:

4.1 Any Peace Officer, District Operator, District Manager, District Supervisor, District Security Officer, District Security Coordinator, or others as designated in writing by the General Manager, 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, District Security Officer, District Security Coordinator, or others as designated in writing by the General Manager, 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 or 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 General Manager. The General Manager 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 5.6.

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 Administrative Guidelines: The General Manager shall promulgate administrative guidelines establishing the duration of exclusion and locations of the exclusion based upon the type of violation, the person's previous exclusion record and the person's progression of behavior after being advised of their violation of any section of this ordinance.

5.6 Appeal Process: The excluded person may appeal in writing within ten (10) days after the commencement of the exclusion to the General Manager or designee for de novo review of the exclusion. The appeal may request that the General Manager 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 General Manager 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 General Manager or designee for a temporary waiver of the exclusion which may be allowed or denied at the discretion of the General Manager.

5.7 Appeal Hearing: If the appeal by an excluded person includes a request for a hearing, a public hearing will be conducted by the General Manager 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.

5.7.1 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.

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

5.7.3 The General Manager or designee may question witnesses and review all documentation referred to by the witnesses.

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

5.7.5 The hearing may or may not be tape recorded at the discretion of the General Manager or designee conducting the public hearing.

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

The foregoing is hereby certified to be a true copy of Ordinance 2000-01, as amended through Ordinance 04-02 adopted under authority of ORS 267.150 and in accordance with ORS 198.510-198.600.

SALEM AREA MASS TRANSIT DISTRICT

By: _____

Kate Tarter, Secretary
SAMTD Board of Directors

ORDINANCE NO. 00-02
SAMTD PUBLIC BUSINESS

SECTION 1. Short Title.

This ordinance shall be known as the Salem Area Mass Transit District Public Business Ordinance and shall be so cited and pleaded.

SECTION 2. Purpose.

This ordinance is designed to protect public property and ensure safe, unimpeded public access and use of the Courthouse Square Project, grounds, parking structures, driveways, parking spaces, and walkways, steps and entry ways of Courthouse Square; and to facilitate the conduct and operation of government/public business of public transportation.

SECTION 3. Definitions.

(1) "Athletic contests" are defined as one or more persons engaging in the activity of football, boxing, baseball, softball, soccer, frisbee throwing, tree climbing, skateboarding, or scaling the exterior walls, gates, and fences of the Courthouse Square Project, or their related structures without authorization.

(2) "Electronically enhanced sound producing device" is a device which amplifies sound, such as a speaker for an FM/AM radio, speakers for a boom box, loudspeaker system, amplifier and speakers, speakers for a record player, speakers for a tape player, or speakers for a compact disc player. This definition does not include transit personnel, police, fire, emergency services, or other public agencies in the course and scope of their public duties that use shortwave/microwave radio equipment, does not include audio or visual material, and does not include any such equipment used by a Salem Area Mass Transit official, agent or employee relating to the conduct of public business.

(3) "Courthouse Square Project" and "Courthouse Square" means the office, retail, bus mall, waiting room, parking and all other condominium units owned by the Salem Area Mass Transit District, the common elements and common areas thereof, sidewalks, driveways, the Hatfield Plaza and the adjacent

north block land located on the city block within the City of Salem, Oregon, bounded by High, Court, Church and Chemeketa Streets.

SECTION 4. Prohibited Activities.

(1) No person shall intentionally, knowingly, recklessly or with criminal negligence block, obstruct or hinder any other person from using the sidewalks, steps, alcoves, entryways, doors, halls, passageways, elevators, stairwells, driveways, parking structures, parking locations, or curb areas at the Courthouse Square Project.

(2) No person shall engage in athletic contests on or in the Courthouse Square Project, or in the parking structures or any driveways attached to the Courthouse Square Project.

(3) No person shall play or operate an electronically enhanced sound producing device in or on the Courthouse Square Project between 6 a.m. and 11 p.m., Sunday through Saturday, or at any time public business is being conducted in the Courthouse Square Project.

SECTION 5. Enforcement.

(1) A person who is found to be in violation of this ordinance shall be orally advised to discontinue his or her activities by a person designated as a "Person in Charge" as defined by ORS 164.205.

(2) A person who, after being orally advised of the violation of this ordinance, fails to comply with the terms of the ordinance, shall be in violation of the provisions of ORS 164.245.

SECTION 6. Severability Clause.

Should any section or portion of this ordinance be held unlawful or unenforceable by any court of competent jurisdiction, such decision shall apply only to the specific section, or portion thereof, directly specified in the decision.

All other sections or portions of this Ordinance shall remain in full force and effect.

SECTION 7. Singular or Plural.

As used in this ordinance, the singular may include the plural, and the plural the singular for any term or terms.

SECTION 8. Permitted Conduct.

(1) This ordinance shall not be interpreted to prohibit people from assembling together in a peaceful manner to consult for their common good; nor from instructing their elected representatives; nor for applying to the elected officials for redress of grievances.

(2) This ordinance shall not be interpreted to restrain the free expression of opinion, or restrict the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.

SECTION 9. Effective Date/Declaration of Emergency.

This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect upon its passage.

Signed and finalized this 24th day of August, 2000.

SALEM AREA MASS TRANSIT DISTRICT

President of the Board of Directors

ATTEST:

Secretary

**ORDINANCE NO. 00-03
NO SMOKING**

SECTION 1. Title.

This ordinance shall be known as the No Smoking Ordinance and shall be so cited and pleaded.

SECTION 2. Purpose.

The Salem Area Mass Transit District Board of Directors find that smoking tobacco creates a health hazard. In order to reduce the health hazard associated with the smoke from tobacco products the Board finds that it is appropriate and necessary to ban smoking in District buildings, facilities and vehicles.

SECTION 3. Definitions.

As used in this ordinance:

(1) "District building" or "District facility" means all buildings or facilities owned, operated or leased by the Salem Area Mass Transit District and includes any area owned or leased by the District in common with another owner or lessee who have also banned smoking in its buildings or facilities.

(2) "District vehicle" means any machine or vehicle owned or leased by the Salem Area Mass Transit District in which any person or property is or may be transported or drawn, however powered or propelled, and whether or not licensed to operate upon a public highway.

(3) "Smoke" or "Smoking" means to smoke or carry any lighted smoking product made of tobacco or tobacco products.

SECTION 4. No Smoking in District Building or Facility.

Except as expressly provided in Section 5, it shall be unlawful for any person to smoke in any District building, facility or vehicle.

SECTION 5. Exceptions.

The District Board of Directors may designate areas in which smoking is permitted.

SECTION 6. Enforcement.

- (1) Any violation of the provisions of this Ordinance shall be punishable upon conviction by a fine of not more than \$100.00.
- (2) If the person who knowingly violates the provisions of this Ordinance is an employee of the Salem Area Mass Transit District(non-elected official) the employee may be subject to discipline in lieu of paragraph (1) above.

SECTION 7. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be considered a separate, distinct and independent provision and the holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 8. Effective Date/Declaration of Emergency.

This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect upon its passage.

Signed and finalized this 24th day of August, 2000.

SALEM AREA MASS TRANSIT DISTRICT

President of the Board of Directors

ATTEST:

Secretary

Salem Area Mass Transit District

**Ordinance 2004-01
as amended by
Ordinance 2004-03
Ordinance 2014-01**

Courthouse Square Police Ordinance

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

1.1 "Courthouse Square Transit Mall" means the real property, improvements, structures, and personal property designated as SAT Unit 7 on the Courthouse Square Condominium Plat.

1.2 "District" means the Salem Area Mass Transit District, a municipal corporation.

1.3 "District Facility" shall include, in addition to the meaning contained in Salem Area Transit District Ordinance 2000-01, the North Block and Hatfield Plaza.

1.4 "North Block" means all real property, improvements, structures, and personal property within that portion of Block 5, City of Salem, Marion County, located northerly of Courthouse Square Transit Mall and includes without limitation FD Unit 8, Courthouse Square Condominium and adjacent general common elements owned by Courthouse Square Condominium Association. In addition, as used in this Ordinance, "North Block" shall also mean Hatfield Plaza unless the context clearly requires otherwise.

1.5 "Hatfield Plaza" means the real property, improvements, structures, and personal property designated as Mark O. Hatfield Plaza GCE on the Courthouse Square Condominium Plat, which is generally located south of the Courthouse Square Transit Mall and west of SAT Unit 5 and SAT Unit 6, Courthouse Square Condominium.

1.6 "Enumerated offense" means any of the following:

- (1) Harassment as defined in ORS 166.065.
- (2) Intimidation as defined in SRC 97.080 or ORS 166.155-166.165.
- (3) Disorderly conduct as defined in SRC 95.120 or ORS 166.025.
- (4) Discharge of a firearm as defined in SRC 95.160.
- (5) Noise disturbance as defined in SRC 93.010.
- (6) Drinking in public as defined in SRC 90.020.
- (7) Minor in possession of alcohol as defined in ORS 471.430.
- (8) Assault, or assault and battery, as defined in SRC 95.040, ORS 163.160-163.185.

- (9) Sexual abuse as defined in ORS 163.415-163.427.
- (10) Public indecency as defined in SRC 96.220 or ORS 163.465.
- (11) Trespass as defined in SRC 95.550 or ORS 164.245-164.265.
- (12) Criminal mischief as defined in ORS 164.345-164.365.
- (13) Prostitution or related offenses as defined in ORS 167.007-167.017.
- (14) Providing liquor to a minor as defined in ORS 471.410.
- (15) Possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, ORS 475.005-475.285, or ORS 475.940-475.995.
- (16) Littering as defined in SRC 95.580 or ORS 164.805.
- (17) Curfew offenses as defined in SRC 95.330-95.335.
- (18) Menacing as defined in ORS 163.190.
- (19) Arson or reckless burning as defined in ORS 164.315-164.335.
- (20) Contributing to the sexual delinquency of a minor as defined in ORS 163.435.
- (21) Sexual misconduct as defined in ORS 163.445.
- (22) Prohibited touching as defined in SRC 96.300.
- (23) Urinating or defecating in public as defined in SRC 95.125.
- (24) Tobacco possession or purchase by minors as defined in ORS 167.400-167.401.
- (25) Prohibited graffiti as defined in SRC 95.610 and ORS 164.381-164.388.
- (26) Pedestrian interference as defined in SRC 95.700.
- (27) Throwing, batting prohibited in certain areas as defined in SRC 95.710.
- (28) Any attempt to commit as defined in ORS 161.405, or conspiracy to commit as defined in ORS 161.450, any of the above offenses.
- (29) Initiating a false report in violation of ORS 162.375.
- (30) Giving false information in violation of ORS 162.385.
- (31) Reckless endangering in violation of ORS 163.195.
- (32) Interfering with public transportation in violation of ORS 166.115.
- (33) Unlawful use of weapon in violation of ORS 166.220.
- (34) Concealed weapon in violation of ORS 166.240.
- (35) Possession of dangerous weapon in violation of ORS 166.370.

1.7 "Habitual Offender" means a person upon that person's fifth exclusion, under any District ordinance, during a thirty-six (36) month period or upon that person's conviction for a felonious act committed on or in the North Block, Hatfield Plaza, Courthouse Square Transit Mall, Passenger Waiting Room, or any other Transit Facility or a Transit Vehicle.

1.8 "SRC" means Salem Revised Code.

1.9 "ORS" means Oregon Revised Statute.

1.10 Other Definitions. Terms not otherwise defined in this Ordinance shall have the meanings contained in Salem Area Mass Transit District Ordinance 2000-01, as amended.

2. OFFENSES:

2.1 Enumerated Offenses: It shall be a violation of this Ordinance for any person within the North Block to engage in conduct in violation of any of the Enumerated Offenses.

2.2 Damage to Property: No person shall, without the permission or consent of the owner thereof, take, appropriate, obtain, withhold, damage, mutilate, deface, remove, alter or destroy any personal or real property, fixtures or improvements located in or on any portion of the North Block.

2.3 Littering: No person shall discard or deposit any rubbish, trash, debris, garbage or refuse substance in or on any portion of the North Block, except in a proper waste disposal receptacle. No person shall spit, defecate, or urinate in or on any portion of the North Block.

2.4 Smoking: No person shall smoke tobacco or any other substance, or shall carry any lighted or smoldering substance, in any form, in any part of the North Block or in any other area designated as a non-smoking area.

2.5 Safety: No person shall:

(1) Ride a skateboard or roller-skates in any part of the North Block;

(2) Ride a bicycle in any part of the North Block except a Peace Officer or District Security Officer in the performance of their duties.

2.6 Prohibited Gang Activities:

(1) Recitals: Gang activity incites violence by persons from rival criminal gangs, which increasingly has resulted in injury to innocent bystanders. Gang activity on or in any District Facility or aboard any District Vehicle therefore can pose a clear and present danger to the safety and well-being of patrons, employees, security officers or law enforcement personnel.

(2) Prohibited Gang Activities: Gang activities are prohibited on or in any District Facility or aboard any District Vehicle. District-trained personnel designated by the District General Manager, District Security Officers or Peace Officers who observe prohibited gang activities may ask the person or persons exhibiting gang activity to discontinue the activity and cease visual or verbal identification of themselves as gang members.

Failure to comply with the above will result in the person being excluded from the premises pursuant to the guidelines of District ordinances and any applicable administrative rules, policies and procedures.

(3) Definitions:

(a) Gang Activities: The use of hand signs or language, the content and context of which clearly indicates gang affiliation, by a gang affiliate or one who otherwise displays clothes, clothing items, clothing with gang graffiti or insignia, items with gang graffiti or insignia, jewelry, or tattoos unique to gang affiliation.

(b) Gang: A gang is an ongoing organization, association, or group of three or more persons, whether formal or informal which has as a primary purpose the commission of violent street or drug related crimes which may include, robbery, homicide, or manslaughter, the sale or possession for sale of narcotics, and the possession of weapons for the use of creating injury or fear to others, including rival gang members. Gangs are also known to commit crimes of arson, witness intimidation, extortion, assault or a pattern of property crimes facilitated by efforts of gang members.

(c) Gang Affiliate: The designation given to an individual who exhibits one or more of the following behaviors:

(i) Admits or asserts affiliation with a gang to the police, security or member of another organization charged with security or law enforcement duties.

(ii) Has been identified as an individual affiliated with a gang based upon reliable information, an informant, or a law enforcement agency including out-of-state or federal agencies.

(iii) Uses a gang name, a common identifying sign or symbol, or has an identifiable leadership.

(iv) Has a high rate of interaction among members of a gang to the exclusion of others.

3. [Reserved]

4. ENFORCEMENT:

4.1 Authority: Any Peace Officer, District Operator, District Manager, District Supervisor, District Security Officer, District Security Coordinator, or others as designated in writing by the District General Manager, has the authority to refuse entrance on or into the North Block, or require

departure from the North Block, of any person who violates any provision of this ordinance.

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

5.1 Exclusion: In addition to other measures provided for violation of this Ordinance, any Peace Officer, District Manager, Operations Supervisor, District Security Officer, District Security Coordinator, or others as designated in writing by the District General Manager, may exclude from any part or all of the North Block, Hatfield Plaza, Courthouse Square Transit Mall, Passenger Waiting Room, and any other 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 General Manager. The General Manager 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 the Section 5.6.

5.3 Exclusion Perimeters: A person excluded under this Ordinance may not enter or remain on or in any part of the North Block 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 the North Block, 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 Administrative Guidelines: The District General Manager may promulgate administrative guidelines establishing the duration of exclusion and locations of the exclusion based upon the type of violation, the

person's previous exclusion record and the person's progression of behavior after being advised of their violation of any section of this Ordinance.

5.6 Appeal Process: The excluded person may appeal in writing within ten (10) days after the commencement of the exclusion to the District General Manager or designee for *de novo* review of the exclusion. The appeal may request that the District General Manager 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 two business days following receipt of the appeal containing the request. The District General Manager 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 District General Manager or designee for a temporary waiver of the exclusion which may be allowed or denied at the discretion of the District General Manager.

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

- (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.
- (2) The burden of proof of a fact or position rests on the District to establish a violation of this Ordinance.
- (3) The District General Manager or designee may question witnesses and review all documentation referred to by the witnesses.
- (4) There shall be no continuance or reopening of the hearing.
- (5) The hearing may or may not be tape recorded at the discretion of the District General Manager or designee conducting the public hearing.

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

The foregoing is hereby certified to be a true copy of Ordinance 2004-01, as amended through Ordinance 2014-01 adopted under authority of ORS 267.150 and in accordance with ORS 198.510-198.600.

SALEM AREA MASS TRANSIT DISTRICT

By: _____

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Kate Tarter, Secretary
SAMTD Board of Directors