



**REVISED**

**STAFF REPORT**

**AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE SUPPLEMENTAL AGREEMENT NO. 10 TO CONTRACT NO. 16043 WITH BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC. FOR ADDITION OF TRAIN ATTENDANTS FOR SPRINTER TRAIN SERVICE AND FOR COASTER CONDUCTORS TO CONDUCT FARE ENFORCEMENT**

Time Sensitive  Consent

**STAFF  
RECOMMENDATION:**

Authorize the Executive Director to finalize and execute Supplemental Agreement No. 10 to Contract No. 16043 with Bombardier Transportation (Holdings) USA, Inc. in an amount not-to-exceed ~~\$10,507,900~~ \$11,198,404 -for the remaining 6 years of the Base Contract and an additional ~~\$5,995,800~~ \$6,389,520 if the 3-year contract extension option is executed. After review and approval of General Counsel. Staff will return to the Board for authorization if it is determined that the option should be exercised.

**BACKGROUND  
INFORMATION:**

The North County Transit District (NCTD) has been evaluating options to further strengthen the riding experience of our customers and enhance safety and security. NCTD and Bombardier Transportation (Holdings) USA, Inc. (Bombardier) have been engaged in discussions that have resulted in the development of Supplemental Agreement 10 adding Train Attendants on board all SPRINTER trains and revising the current contract to augment the responsibilities of Conductors on COASTER trains. Following is detailed information regarding the proposed changes:

**Train Attendants for SPRINTER**

Currently, SPRINTER trains are operated by a single operator who is responsible for all aspects of management of train operations to include controlling the movement of the train, management of customer relations, and safety/security management. NCTD, based on its own evaluation, along with feedback from customers, has determined that additional personnel support is needed onboard all SPRINTER revenue trains to assist in its operations.

Accordingly, NCTD and Bombardier have agreed, subject to Board approval, to add 18 Train Attendants to Contract No. 16043. The primary job functions for a Train Attendant will include, but not be limited to, the following:

- Ensure that there is a proper job briefing with the Operator prior to moving any equipment.
- Ensure that there is proper communication between the Train Attendant and the Operator.
- Ensure that all SPRINTER passengers are safely on the train or platform prior to the Operator proceeding. This will require a verbal notification to the Operator announcing that all passengers are clear and it is safe to proceed.

- In the event of an evacuation, the Train Attendant will ensure that the passengers are kept informed of the circumstances and direction for evacuation. The Train Attendant will confer with the Operator and, once it has been determined it is safe to de-board the train, the Train Attendant will ensure passengers are safely de-boarded and moved to a place of safety.
- Perform fare enforcement activities, including verifying that passengers have a valid ticket while riding the SPRINTER system.
- Assist the Operator at the end of each run, including proper securement of the train (e.g., ensuring all passengers have exited the train, the doors have been closed, and the train crew can complete the pre-trip/post-trip tasks).
- Sweep the train for trash, spills, graffiti, etc.
- Immediately report any unusual conditions or occurrences to Operations Control Center (OCC). This would include any mechanical issues, security items, or emergency situations.
- Perform passenger counts when NCTD's automatic passenger counter is not operational.

NCTD's Transit Enforcement Division includes thirty-five (35) Code Enforcement Officer positions. Code Enforcement Officers currently perform some of the duties that have been included in the Train Attendant job description. NCTD has reached an agreement with the SMART Union that will support the implementation of Supplemental Agreement 10 through the transition of approximately ~~48~~<sup>19</sup> Code Enforcement Officers to the Bombardier contract as Train Attendants. A full-time Manager position will also be added to support training and oversight for the Train Attendants. The salary and benefit expense for this managerial position will be shared equally between NCTD and Bombardier. Those Code Enforcement Officer positions and the associated budget for the ~~Train Attendants~~new positions will be transferred from NCTD's current operating labor and benefit budget line items to Contract No. 16043 with Bombardier.

### **COASTER Conductors Supporting Fare Enforcement**

Currently, COASTER Conductors do not support fare enforcement. Supplemental Agreement 10 would require that COASTER Conductors perform this function and, along with SPRINTER Train Attendants, perform passenger counts when NCTD's automatic passenger counter is not operational. The cost associated with these additional services are \$0.

The addition of these functions to the operations environment on COASTER and SPRINTER will support NCTD's goals of strengthening the riding experience for our customers, and enhancing the safety and security of rail operations. Accordingly, staff recommends that the Board of Directors authorize the Executive Director to finalize and execute Supplemental Agreement 10 to Contract No. 16043 with Bombardier Transportation (Holdings) USA, Inc. in an amount not-to-exceed \$11,198,404 ~~10,507,900~~ for the remaining 6 years of the Base Contract and an additional \$6,389,520 ~~5,995,800~~, if the 3-year contract extension option is executed. After review and approval of General Counsel. Staff will return to the Board for authorization if it is determined that the option should be exercised

**ATTACHMENT:** None

**FISCAL IMPACT:** The fiscal impact of this proposed contract action is not-to-exceed ~~\$10,507,900~~\$11,198,404 for the remaining 6 years of the Base Contract, and an additional ~~\$5,995,800~~\$6,389,520, if the 3-year contract extension option is executed. The FY2018 proposed contract action of ~~\$1,624,500~~\$1,731,244 is programmed in the proposed FY2018 operating budget with local operating monies in account 160.508146.030, which supports SPRINTER operating costs. Future expenditures will be programmed in future fiscal year operating budgets as required.

**COMMITTEE REVIEW:** None

**STAFF CONTACT:** **Don Filippi, Chief Operations Officer – Rail**  
E-mail: [dfilippi@nctd.org](mailto:dfilippi@nctd.org) Phone: 760-966-6773

**STAFF REPORT**

**AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE SUPPLEMENTAL AGREEMENT NO. 10 TO CONTRACT NO. 16043 WITH BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC. FOR ADDITION OF TRAIN ATTENDANTS FOR SPRINTER TRAIN SERVICE AND FOR COASTER CONDUCTORS TO CONDUCT FARE ENFORCEMENT**

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INFORMATION:**

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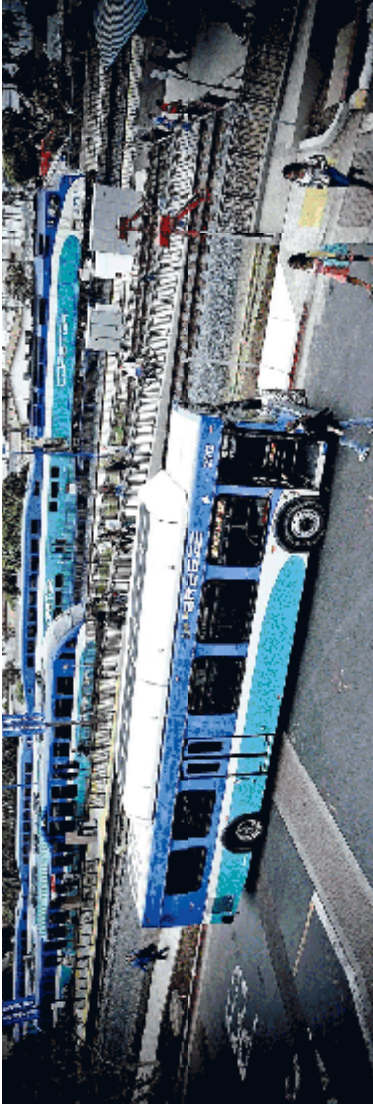
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**ATTACHMENT:** None

**FISCAL IMPACT:** The fiscal impact of this proposed contract action is not-to-exceed \$10,507,900 for the remaining 6 years of the Base Contract, and an additional \$5,995,800, if the 3-year contract extension option is executed. The FY2018 proposed contract action of \$1,624,500 is programmed in the proposed FY2018 operating budget with local operating monies in account 160.508146.030, which supports SPRINTER operating costs. Future expenditures will be programmed in future fiscal year operating budgets as required.

**COMMITTEE REVIEW:** None

**STAFF CONTACT:** **Don Filippi, Chief Operations Officer – Rail**  
E-mail: [dfilippi@nctd.org](mailto:dfilippi@nctd.org) Phone: 760-966-6773



**RELATED TO AGENDA  
ITEM 19**

**NORTH COUNTY  
TRANSIT DISTRICT**

**SUPPLEMENTAL AGREEMENT TO  
BOMBARDIER TRANSPORTATION  
(HOLDINGS) USA, INC. FOR ADDITION OF  
TRAIN ATTENDANTS FOR SPRINTER TRAIN  
SERVICE AND FOR COASTER CONDUCTORS  
TO CONDUCT FARE ENFORCEMENT**

**Regular Board Meeting  
May 18, 2017**



**COASTER SPRINTER BREEZE FLEX LIFT**  
810 Mission Avenue, Oceanside, CA 92054 • GoNCTD.com

# Background

- **SPRINTER operations fall under the jurisdiction of the Federal Railroad Administration (FRA) with a waiver of certain regulatory requirements that result in NCTD also being subject to regulatory requirements specified by the California Public Utilities Commission.**
- **The FRA waiver:**
  - Allows NCTD to operate, under temporal separation, with a vehicle that does not meet FRA crash standards for combined freight and passenger operations.
  - Allows NCTD to operate under CPUC standards for light rail operations which allows NCTD to operate with a single person crew (operator only). Unlike COASTER, there is no conductor.
  - Prevents NCTD from operating SPRINTER trains on the coastal corridor or during the same time that freight is being operated.



# Basis For Supplemental Agreement to Add SPRINTER Train Attendants

- **NCTD has determined that the current operations with only the SPRINTER Operator on-board, requires staff augmentation to support positive safety, security, and customer service outcomes. Key factors include:**
  - Approximately 22.3% of NCTD’s total ridership is on the SPRINTER.
  - NCTD, through its ongoing survey of customers, has received feedback requesting increased safety and security presence onboard SPRINTER trains.
  - NCTD has conducted emergency drills which indicate that having an additional operational staff member onboard enhances safety processes, such as SPRINTER train evacuation.

# Scope of Proposed Supplemental Agreement to Add SPRINTER Train Attendants

- Bombardier will hire 19 Train Attendants.
- Every SPRINTER Train in revenue operations will have a Train Attendant.
- Duties to the Train Attendant include:
  - On-Board Safety and Security Monitoring.
  - Fare Checks.
  - Way-Finding and Rider Information.
  - Communicating incident information to the OCC.
  - Assisting Train Operators with equipment coupling/movement.



# Collaboration with the Sheet Metal, Air, Rail Transportation (SMART) Union

- The SMART Union represents Bombardier COASTER engineers and conductors and SPRINTER Operators.
- The SMART Union also represents NCTD Code Enforcement employees.
- NCTD and the SMART Union reached an agreement that both parties believe best support NCTD operations.

**NORTH COUNTY TRANSIT DISTRICT**  
PROCUREMENT & CONTRACT ADMINISTRATION DIVISION

MEMORANDUM OF UNDERSTANDING (MOU)  
BETWEEN NORTH COUNTY TRANSIT DISTRICT AND  
INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR, RAIL AND TRANSPORTATION  
WORKERS REGARDING HIRING AND LABOR REQUIREMENTS FOR THE COMBINED RAIL  
OPERATIONS AND MAINTENANCE AGREEMENT NO. 16043

This Memorandum of Understanding ("MOU") is made and entered into by and between the NORTH COUNTY TRANSIT DISTRICT (NCTD), operating under and pursuant to Public Utilities Code sections 125000, et seq. and INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR, RAIL AND TRANSPORTATION WORKERS ("SMART"), individually referred to as a "Party" and collectively referred to herein as "Parties"

**RECITALS**

The following recitals are a substantive part of this MOU:

WHEREAS, NCTD entered into Agreement No. 16043 ("Agreement") with Bombardier Transportation (Holdings) USA, Inc. (Bombardier) and

WHEREAS, NCTD is preparing a Supplemental Agreement to Agreement No. 16043 with Bombardier to add a Train Attendant classification for SPRINTER Operations; and

WHEREAS, the staffing headcount for the new Train Attendant positions will be supported by the elimination of eighteen (18) existing NCTD Code Enforcement Officer positions; and

WHEREAS, the Code Enforcement Officer classification is currently represented by SMART, and it is the intention of the Parties that SMART's representation shall transfer to the new Train Attendant classification with Bombardier; and

WHEREAS, the Parties wish to memorialize their agreement in this MOU to carry out the purposes set forth above.

**AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises set forth herein, the Parties agree as follows:

**NCTD AGREES:**

1. The Supplemental Agreement to Agreement No. 16043 will require Bombardier to recognize SMART as the union representing employees in the Train Attendant classification.
2. The Supplemental Agreement to Agreement No. 16043 will require Bombardier to negotiate in good faith with SMART for purposes of developing a collective bargaining agreement ("CBA"), addressing all appropriate subjects of bargaining.
3. The Supplemental Agreement to Agreement No. 16043 will require Bombardier to:
  - a) Agree that all new positions for Train Attendants be offered to current, qualified Code Enforcement Officer applicants in seniority order;
  - b) Agree that a ratio of one (1) to one (1) will be maintained (i.e. one Train Attendant position for each SPRINTER Operator position);
  - c) Recognize the current seniority standing and status of Code Enforcement Officers who are hired as Train Attendants for vacation accrual purposes.

# Fiscal Impact

- **The cost of 19 Train Attendant positions and 1 Manager is \$11,198,404 for Year 1 through 6.**
  - NCTD is paying 50% of the Manager position expense.
- **The Year 1 cost of the proposed Supplemental Agreement with Bombardier is \$1,731,244.**
- **The cost for the 3-year option, if exercised, is \$6,389,520.**

# Recommended Action

- **Staff recommends that the Board of Directors authorize the Executive Director to finalize and execute Supplemental Agreement 10 to Contract No. 16043 with Bombardier Transportation (Holdings) USA, Inc. in an amount not-to-exceed \$11,198,404 for the remaining 6 years of the Base Contract and an additional \$6,389,520, if the 3-year contract extension option is executed. After review and approval of General Counsel. Staff will return to the Board for authorization if it is determined that the option should be exercised.**

# Questions?



**NORTH COUNTY  
TRANSIT DISTRICT**

**COASTER SPRINTER BREEZE FLEX *LIFT***

810 Mission Avenue, Oceanside, CA 92054 • GoNCTD.com

**STAFF REPORT**

**RECEIVE PROPOSED MODIFICATIONS TO THE NORTH COUNTY TRANSIT DISTRICT'S ORDINANCE NO. 3 AND SET A PUBLIC HEARING FOR JUNE 15, 2017 TO CONSIDER ADOPTION OF THE PROPOSED MODIFICATIONS**

Time Sensitive  Consent

**STAFF  
RECOMMENDATION:**

Staff recommends that the Board of Directors:

1. Receive the proposed modifications to Ordinance No. 3: An Ordinance Establishing the North County Transit District's Code of Regulations;
2. Waive the full reading of Ordinance No. 3;
3. Set a public hearing for June 15, 2017 to consider adopting amended Ordinance No. 3; and
4. Authorize staff to provide public notification of the public hearing date and receive public comment.

**BACKGROUND  
INFORMATION:**

The North County Transit District's (NCTD) enabling legislation at Public Utilities Code section 125105(f) specifically authorizes the Board of Directors to adopt ordinances and make all rules and regulations proper or necessary for regulating the use, operation and maintenance of NCTD property and facilities. To that end, NCTD's Board of Directors has adopted several Ordinances, including the Ordinance at issue here:

- Ordinance No. 3— An Ordinance Establishing the North County Transit District's Code of Regulations

**Background:**

NCTD provides more than 12 million passenger trips per year in North San Diego County. NCTD provides service within a 1,020 square mile geographic area, with a population of approximately 897,000 people. Services include BREEZE bus (with FLEX on-demand routes), with approximately 8.0 million annual boardings at over 1,900 locations across the North County San Diego area; SPRINTER hybrid rail, with approximately 2.7 million annual boardings at 15 stations; COASTER commuter rail, with approximately 1.6 million annual boardings at 8 stations; and LIFT paratransit service for individuals with disabilities, with more than 180,000 annual passenger trips. NCTD employs approximately 150 direct staff and contractors operating NCTD's five modes employ approximately 600 staff at any given time.

NCTD is in the process of working with its rail operations contractor, Bombardier Transportation (Holdings) USA, Inc. (Bombardier), to provide for fare enforcement by conductors on COASTER, and by a Train Attendant position on SPRINTER. This contract modification is being considered by the Board of Directors at its regularly scheduled meeting on May 18, 2017. Additionally, NCTD contracts with the San Diego County Sheriff's Department to provide 6 personnel in support of NCTD's Transit Enforcement Division and is presently developing agreements with the law enforcement agencies at the Cities of Oceanside and Escondido to

provide for security and enforcement. Accordingly, Ordinance No. 3, which establishes the rules and regulations for the use of NCTD facilities and vehicles and the enforcement authority related to violations of those rules and regulations, needs to be modified to provide for fare and code enforcement by these contracted groups to allow for efficiencies in operations and to provide sufficient security presence at key locations within the system. The attached legal blackline of Ordinance No. 3 provides the proposed modifications to address enforcement.

Additionally, Ordinance No. 3 prohibits smoking on NCTD facilities as defined:

*"NCTD Facility" or "NCTD Transit Facility" shall mean and refer to the NCTD system, operated by or on behalf of NCTD, including, in its whole or in its part the rights-of-way, tracks, bridges, power stations, yards, shops, stations, parking areas, Trains, motor vehicles, real and personal property, platforms and all things ancillary or convenient to the operation thereof.*

NCTD has determined that various staff and contractor employee groups located and working in some NCTD locations subject to the smoking prohibition in Ordinance No. 3 are unable to smoke during their legally-required and/or authorized breaks and lunch periods as there is no legally designated area for smoking. Staff has determined that Ordinance No. 3 should be amended to authorize designated smoking areas to be established at yards, shops and/or employee parking areas that otherwise comply with State law related to smoking on public property and near public buildings. The attached legal blackline of Ordinance No. 3 provides the proposed modifications to address designated smoking areas at employee facilities.

Based on the foregoing, staff recommends that the Board of Directors:

1. Receive the proposed modifications to Ordinance No. 3: An Ordinance Establishing the North County Transit District's Code of Regulations;
2. Waive the full reading of Ordinance No. 3;
3. Set a public hearing for June 15, 2017 to consider adopting amended Ordinance No. 3; and
4. Authorize staff to provide public notification of the public hearing date and receive public comment.

**ATTACHMENT:** 15A – Legal Blackline of Proposed Modifications to Ordinance No. 3

**FISCAL IMPACT:** This staff report has no fiscal impact.

**COMMITTEE REVIEW:** None

**STAFF CONTACT:** **Lori A. Winfree, General Counsel**  
E-mail: [lwinfree@nctd.org](mailto:lwinfree@nctd.org) Phone: 760-966-6532



**ATTACHMENT 15A**

**NORTH COUNTY TRANSIT DISTRICT**

ORDINANCE NO. 3

(as Adopted December 17, 2009, and Amended through ~~July 21, 2016~~ June 15, 2017)

An Ordinance Establishing the North County Transit District's Code of Regulations

The Board of Directors of the North County Transit District (NCTD) does ordain as follows:

**Section 1:**

The Board hereby amends Ordinance No. 3, an Ordinance Establishing the North County Transit District's Code of Regulations, as amended, and attached hereto as Exhibit A. This Ordinance shall become effective ~~July 21, 2016~~ June 15, 2017.

PASSED, APPROVED AND ADOPTED at the regular meeting of the Board of Directors of the NORTH COUNTY TRANSIT DISTRICT this ~~21st~~ 15th day of ~~July 2016~~ June 2017.

\_\_\_\_\_  
CHAIRMAN, North County Transit District

ATTEST:

\_\_\_\_\_  
CLERK OF THE BOARD, North County Transit District

**EXHIBIT A**  
NORTH COUNTY TRANSIT DISTRICT  
ORDINANCE NO. 3

(as Adopted December 17, 2009, and Amended through ~~July 21, 2016~~ June 15, 2017)

An Ordinance Establishing the North County Transit District's Code of Regulations

The Board of Directors of the North County Transit District ("NCTD") does ordain as follows:

**Section 1:    General**

Section 1.1: Findings

- A.    The use of NCTD's transportation system, including all facilities and vehicles appurtenant thereto, is expressly conditioned upon compliance with the rules and regulations promulgated by NCTD pursuant to its statutory authority, and all rights, privileges and permits, express or implied, for use of the said transportation system are and shall be deemed revocable, and each such right, privilege license or permit shall, at the option of NCTD or its duly authorized representative be and be deemed to be revoked and canceled by and upon the breach of any such rules and regulations or any applicable laws or ordinances while in or upon the said transportation system; and
- B.    California Penal Code Section 640, prohibits specified acts on or in a facility or vehicle of a "public transportation system," as defined by Section 99211 of the Public Utilities Code: and
- C.    NCTD's transportation system qualifies as a public transportation system, "as defined in Public Utilities Code Section 99211 as a "system of an operator which provides transportation services to the general public by any vehicle which operates on land or water"; and
- D.    California Public Utilities Code section 99170, expressly prohibits certain acts "with respect to the property, facilities. or vehicles of a transit district"; and
- E.    NCTD is also a "transit district," as defined in Public Utilities Code section 99213;and
- F.    Public Utilities Code section 12510S(f) authorizes the Board to: "Do any and all things necessary to carry out the purposes of this division, including, but not limited to, adopting all ordinances and making all rules and regulations proper or necessary to regulate the use, operation, and maintenance of the district's property and facilities"; and
- G.    Public Utilities Code section 125450 expressly provides penalties for violation of "any ordinance, rule or regulation" enacted by NCTD "relating to nonpayment of a fare in any transit facility owned or controlled by the board": and

- H. Public Utilities Code section 125451 prohibits any person from giving, either orally or in writing information to a public officer or employee engaged in the enforcement of State law and the rules and regulations adopted by NCTD under State law, if that person knows that the information is false; and
- I. Public Utilities Code section 125452 states that a violation of any ordinance, rule, or regulation enacted by the NCTD Board prohibiting unauthorized operation or manipulation of transit facilities owned or controlled by the board, or prohibiting unauthorized tampering or interference with, or loitering in or about, transit facilities owned or controlled by the board, is an infraction or misdemeanor; and
- J. Public Utilities Code section 125453 states that a violation of any ordinance, rule, or regulation enacted by the NCTD Board prohibiting the unauthorized entering into, climbing upon, holding onto or in any manner attaching oneself to vehicles operated upon exclusive public mass transit guideways owned or controlled by the board, is an infraction or misdemeanor; and
- K. Penal Code section 369i states that any person who enters or remains upon the property of any railroad without the permission of the owner of the land, the owner's agent, or the person in lawful possession and whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders, or which, if allowed to continue, would interfere with, interrupt, or hinder the safe and efficient operation of any locomotive, railway car, or train is guilty of a misdemeanor, punishable in accordance with Penal Code section 19; and
- L. Penal Code section 836.5 provides that a public agency such as NCTD may authorize, by ordinance, its public officers and employees to arrest a person, without a warrant, for committing a misdemeanor or infraction that is a violation of a statute or ordinance that the officers have a duty to enforce; and
- M. The Board of Directors of NCTD recognizes it has limited financial and operational resources available in terms of enforcement personnel and must utilize those limited resources effectively by authorizing its designated staff to exercise discretion in enforcement of applicable rules and regulations to best address the needs of the District and the public.
- N. The Board of Directors of NCTD desires to incorporate prohibitions of State law, adopt certain additional rules and regulations proper and necessary to regulate the use, operation and maintenance of NCTD's property and facilities, prohibit non-payment of fares, and authorize certain designated public officers and employees to arrest persons and issue citations, in accordance with Penal Code section 836.5.
- O. The characteristics of commuter rail, such as COASTER, are intended to accommodate longer trips with relatively few train stops. To accommodate those operating characteristics, commuter trains typically include customer

amenities such as tables, trash receptacles, and bathrooms that cannot be provided for on buses or light rail vehicles. Based on the aforementioned, the NCTD Board of Directors finds that COASTER customers are allowed to consume light meals or snacks and consume beverages contained in spill-resistant containers and soft-sided, single use/disposable containers made of paper, Styrofoam, light plastic, PVC, or similar materials, with friction sealed tops onboard COASTER.

## Section 1.2: Definitions

The following terms as used in this Ordinance shall have the following meanings:

- A. Alcoholic Beverage - "Alcoholic Beverage" means alcoholic beverage, or beverages, as defined in the Alcoholic Beverage Control Act, Business and Professions Code section 23000 et seq., as it may be amended in the future.
- A.B. Authorized Enforcement Personnel – Shall include any NCTD Officer, any Peace Officer, or any designated NCTD Employee or contractor of NCTD acting in an official capacity, including a Private Security Officer. For the purposes of this Ordinance any NCTD Employee or contractor of NCTD acting in an official capacity as Authorized Enforcement Personnel must be expressly designated as such by the Executive Director in writing within the applicable job description, employment contract or service contract.
- B.C. Bicycle – "Bicycle" shall mean and refer to a device upon which any person may ride, propelled exclusively by human power through a belt, chain, or gears, and having two or more wheels.
- C.D. Bus – "Bus" shall mean and refer to any motor vehicle, other than a motor truck or truck tractor, designed for carrying more than 10 persons including the Driver, and used or maintained for the transportation of Passengers, except that any motor vehicle, other than a motortruck or truck tractor, designed for carrying not more than 12 persons, including the Driver, which is maintained and used in the nonprofit transportation of adults to and from a work location as part of a carpool program or when transporting only members of the household of the owner thereof, shall not be considered to be a Bus for the purpose of this section.
- D.E. Bus Stop – "Bus Stop" shall mean and refer to a designated area marked by a sign depicting a specific route number, or numbers, for the loading and unloading of passengers from, or onto, a bus, which may or may not include a bench or shelter.
- E.F. Citation - "Citation" shall mean a written notice to appear issued pursuant to the provisions of Penal Code section 836.5.
- F.G. COASTER - "COASTER" shall mean and refer to the regional Train service also known as the San Diego Coast Express Rail operated in the Central and Northern coastal region of San Diego County by or on behalf of NCTD.

- ~~G.H.~~ Commercial Activities - "Commercial Activities" include the advertising, display, sale, lease, offer for sale or lease, or distribution of food, goods, newspapers, services or entertainment, including the distribution of promotional advertisements, circulars or materials.
- ~~H.I.~~ Commercial Vehicle - "Commercial Vehicle" shall mean and refer to a vehicle of a type required to be registered under the Vehicle Code and used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property. Passenger vehicles, which are not used for the transportation of persons for, hire, compensation, or profit and house cars are not Commercial Vehicles.
- ~~I.J.~~ Driver - "Driver" is a person who drives or is in actual physical control of a vehicle.
- ~~J.K.~~ Expressive Activities - "Expressive Activities" includes holding any meeting, performing any ceremony, making any speech, address, demonstration, or oration; carrying, exhibiting, displaying or distributing any sign, placard, notice, pamphlet, literature, survey, declaration, or appeal of any kind; conducting or participating in any proselytizing, parading, marching, patrolling, and/or demonstrating, or any other protected Expressive Activities as defined in State or federal law.
- ~~K.L.~~ Fare - "Fare" is the amount payable for transportation upon the NCTD Facility or NCTD Vehicle on which a person is a Passenger or on which he or she attempts to board, according to the then-current schedule of fares established by NCTD and approved by the San Diego Association of Governments ("SANDAG").
- ~~L.M.~~ Fare Paid Zone - "Fare Paid Zone" shall mean and refer to those areas designated by signage or other clear visual indications within any NCTD Transit Facility, including but not limited to train stations or bus platforms, in which persons are prohibited from entering except upon payment of the applicable Fare and in possession of Proof of Fare Payment.
- ~~M.N.~~ Identification - "Identification" shall mean and refer to a driver's license or other satisfactory evidence of a person's identity or, if the person does not have a driver's license or other satisfactory evidence of identity in his or her possession, the person's right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the notice to appear.
- ~~N.O.~~ NCTD Facility or NCTD Transit Facility - "NCTD Facility" or "NCTD Transit Facility" shall mean and refer to the NCTD system, operated by or on behalf of NCTD, including, in its whole or in its part the rights-of-way, tracks, bridges, power stations, yards, shops, stations, parking areas, Trains, motor vehicles, real and personal property, platforms and all things ancillary or convenient to the operation thereof.

- Q. ~~NCTD Officer or NCTD Employee~~ - "NCTD Officer" or "NCTD Employee" is a person who is directly appointed or employed by NCTD, who is a public officer or public employee and who is not an independent contractor of NCTD.
- P. ~~NCTD Transit Enforcement Officer~~ - ~~"NCTD Transit Enforcement Officer"~~ shall mean an NCTD Officer or NCTD Employee who has one of the following titles: Chief of Transit Enforcement, Manager of Transit Enforcement, Code Enforcement Supervisor, Code Enforcement Lead Officer, Code Enforcement Officer~~(KTT)~~.
- P. NCTD Transit Enforcement Officer – "NCTD Transit Enforcement Officer" shall mean an NCTD Officer or NCTD Employee who is specifically designated and authorized by the terms of their employment to enforce the ordinances of the Board of Directors in Section 3.
- Q. NCTD Vehicle – "NCTD Vehicle" shall mean and refer to Buses and Trains or any form of public conveyance utilized, owned, or controlled by NCTD.
- R. Passenger - "Passenger" shall mean and refer to any person occupying, riding or using any NCTD Vehicle, boarding or de-boarding such a Vehicle or waiting within a designated paid zone waiting area at a NCTD Transit Facility.
- S. Peace Officer - "Peace Officer" shall mean and refer to a person who meets certain requirements of law set forth in Penal Code section 830 et seq.
- T. Pedestrian - "Pedestrian" shall mean and refer to any person who is afoot or who is using a means of conveyance propelled by human power other than a Bicycle.
- U. Proof of Fare Payment - "Proof of Fare Payment" means any of the following, as applicable:
1. A monthly pass (Adult, Youth, or Senior/Disabled) or other time-delimited pass valid for use on the NCTD Vehicle, purchased by or for the Passenger, and valid for the time of use.
  2. A single-ride ticket purchased by or for the Passenger from a fare vending machine or customer service representative. This single-ride ticket is valid provided the Passenger in possession is qualified for the fare category printed on the ticket, and the Passenger is using the ticket within two hours of the date and time printed on the ticket. The single-ride ticket must be valid for the entire length of time that the Passenger in possession is on board the Vehicle.
  3. A multi-ride ticket (such as a Day Pass") valid for use on an NCTD Vehicle at the time of use, purchased by or for the Passenger from a fare vending machine or customer service representative.

4. A valid transfer from a public transit system in San Diego County to an NCTD Vehicle, including a transfer ticket from an NCTD Bus to an NCTD Train. All such transfers shall be considered valid Proof of Fare Payment until the expiration time printed.

5. Any valid fare media as described above that is stored on a "Smart Card" or regional "COMPASS CARD"

~~5-6.~~ Any other authorized method of payment.

V. Property – shall mean any and all property owned and or occupied by NCTD or its contractors.

~~V.W.~~ Rail Station – “Rail Station” shall mean and refer to a designated area marked by sign depicting a NCTD Rail line for the loading and unloading of passengers from, or onto, a train, which may or may not include a bench or shelter.

~~W.X.~~ Service Animal - "Service Animal" shall mean and refer to any animal trained to assist a disabled person in one or more daily life activities.

~~X.Y.~~ Smoke and/or Smoking - "Smoke" and/or "Smoking" shall mean and include (1) the carrying or holding of a lighted or activated pipe, cigar or cigarette of any kind; and/or (2) the carrying, holding, or use of an electronic cigarette, as defined in California Health & Safety Code section 119405, or any similar smoking device intended to emulate smoking, which permits a person to inhale fumes, vapors or mists, whether or not it includes nicotine. "Smoking" also includes emitting or exhaling the fumes or vapor of any pipe, cigar, cigarette, or any other lighted smoking equipment used for burning any tobacco product, weed, plant or any other combustible substance, or any electronic cigarette, hookah, or other similar device.

a. "Hookah" shall mean a glass filled pipe (a single or multi-stemmed instrument) used for vaporizing and smoking flavored tobacco (commonly called shisha) or other substances in which the vapor or smoke is passed through a water basin (often glass-based) before inhalation.

b. "Electronic Cigarette" - shall mean an electronic or battery operated device with heating element, or electronic circuit, including every marketed or sold device such as hookah pens, electronic cigar, vape pipes, electronic hookahs and/or any other product name or descriptor, which device is intended to emulate smoking, and permits a person to inhale fumes, vapors or mists, whether or not it includes nicotine.

~~Y.Z.~~ Spill-resistant container – “Spill-resistant container” shall mean a hard sided material, intended for repeated use, cup, bottle, mug, or vacuum flask with a hard top that screws or snaps on to seal and is designed to contain fluids in a manner to prevent unintentional spills or leaks. These are

commercially known as "commuter" or "travel" cups or mugs. Soft sided, single use/disposable containers made of paper, Styrofoam, light plastic, PVC, or similar materials, with or without lightly constructed friction sealed tops do not meet the definition of "spill-resistant containers".

~~Z.AA.~~ SPRINTER – “SPRINTER” shall mean and refer to the regional Train services operated between the cities of Oceanside and Escondido upon approximately 22 miles of trackage of the San Diego Northern Railroad, by or on behalf of NCTD.

~~AA.BB.~~ Train - "Train" shall mean and refer to a vehicle operated upon rails in support of the movement of customers.

~~BB.CC.~~ Transit Center – “Transit Center” shall mean and refer to a designated area marked by a sign depicting an NCTD facility for the loading and unloading of passengers from, or onto, a Bus or Train, which may or may not include a bench or shelter.

## **Section 2: Rules and Regulations**

Section 2.1: Incorporation of Prohibitions of State Law. Each of the following acts are unlawful pursuant to Penal Code section 640 and incorporated herein:

- A. Playing sound equipment, including but not limited to any radio, phonograph, tape player, disc player, smart phone, mp3 player or any similar instrument in a manner that is audible to any other person on or in any NCTD Facility or NCTD Vehicle.
- B. Smoking, as defined herein, in or on any NCTD Transit Facility, NCTD Property, NCTD Vehicle, Bus Stop or Transit Center unless within specified, or lawfully designated areas.
- C. Eating in or on any NCTD Facility or NCTD Vehicle, except as provided herein.
- D. Consuming beverages in or on any NCTD Facility or NCTD Vehicle, except as provided herein.
- E. Expectorating upon any NCTD Facility or NCTD Vehicle.
- F. Willfully disturbing others on or in any NCTD Facility or NCTD Vehicle by engaging in boisterous or unruly behavior, including loud, lewd or lascivious behavior.
- G. Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in any NCTD Facility or NCTD Vehicle.
- H. Urinating or defecating in any NCTD Facility or NCTD Vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of disability, age, or a medical condition.



- I. Willfully blocking the free movement of another person in any NCTD Facility or NCTD Vehicle, except that 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.
- J. Skateboarding, roller skating, Bicycle riding, or roller blading in any NCTD Facility or NCTD Vehicle, expressly including any parking lot or parking structure, except that this prohibition shall not apply to an activity that is necessary for utilization of the NCTD Transit Facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a Bicycle or transporting a Bicycle aboard a NCTD Transit Vehicle, if that activity is conducted in accordance with the provisions of Section 2.2 below and in a manner that does not interfere with the safety of the bicyclist or other patrons of the NCTD Transit Facility.
- K. Unauthorized use of a discount ticket or failure to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155 of the Public Utilities Code and posted NCTD identification policies when entering or exiting an NCTD Facility or NCTD Vehicle.

Section 2.2: Rules and Regulations. Pursuant to Public Utilities Code sections 99170 and 125105, the Board of Directors of NCTD hereby adopts the following rules and regulations governing acts on or in NCTD Facilities or NCTD Vehicles, and expressly finds that the following regulations, and each of them, is proper and necessary to regulate the use, operation, and maintenance of NCTD's property and facilities.

- A. It shall be unlawful for any person aboard any NCTD Vehicle to:
  1. Extend his/her hand arm, foot, leg, or other portion of the body through any window of any NCTD Vehicle.
  2. Consume beverages, except that closed, spill-resistant containers are permissible on all modes, and, in addition, soft-sided, single use/disposable containers made of paper, Styrofoam, light plastic, PVC, or similar materials, with friction sealed tops are permissible on COASTER.
  3. Consume food, except that consumption of light meals or snacks in a manner that does not damage NCTD equipment or create a disruption to other passengers is permissible on COASTER.
  4. Possess an open Alcoholic Beverage container.
  5. Smoke, as defined herein, or carry or hold a lighted or activated pipe, cigar or cigarette of any kind; and/or the carrying, holding, or use of an electronic cigarette, as defined in California Health & Safety Code section 119405, or any similar smoking device intended to emulate

smoking, which permits a person to inhale fumes, vapors or mists, whether or not it includes nicotine.

6. Discard litter in or upon any NCTD Vehicle except in designated waste receptacles.
7. Throw any object from any NCTD Vehicle.
8. Bring, carry onto or convey upon any NCTD Vehicle, Bicycles, except onto an NCTD Vehicle with a designated bike rack or other storage area upon the Vehicle, in which event the Bicycle shall be placed in the appropriate bike rack or other storage area upon the Vehicle. Bicycles may not be carried or placed on the interior of any Bus and must be placed in the designated bike rack in the front of the Bus. Bicycles are also permitted on NCTD Trains provided that the Bicycle is secured in the bicycle tie downs. The Bicycle may not block aisles or doorways.
9. Interfere in any manner whatsoever with the operator or operation of a NCTD Vehicle.
10. Commit any act or engage in any behavior that may, with reasonable foreseeability, cause harm or injury to any person or property.

B. It shall be unlawful for any person in or about any NCTD Vehicle or NCTD Transit Facility to:

1. Enter upon the roadbed, tracks, structures, or other parts of any NCTD Transit Facility, which are not open to Passengers or to the public, except NCTD employees, agents or authorized visitors.
2. Sit, lie, or stand with any portion of his/her body extending within 8 feet 6 inches of the centerline of the outside rail on straight track or within 9 feet 6 inches of the centerline of the outside rail on curved track except while entering or alighting from a Train stopped at that station.
3. Interfere with the operator or operation of any NCTD Vehicle, or impede the safe boarding or alighting of Passengers.
4. Throw or project a stone, object or other missile at any NCTD Vehicle or at any person or thing in an NCTD Transit Facility.
5. Consume any Alcoholic Beverage or possess an open Alcoholic Beverage container on any NCTD Vehicle or on any NCTD Transit Facility, except on premises licensed therefore.
6. Put his or her foot on any seat provided for any Passengers at an NCTD Transit Facility or on an NCTD Vehicle or place any article on such seat, which would leave grease, oil, paint, dirt, or any other substance on such seat.

7. Discard, deposit, or abandon property, rubbish, trash, or debris at any NCTD Transit Facility or on any NCTD Vehicle except in appropriate waste receptacles.
8. Bring, carry onto or convey upon any NCTD Transit Facility or any NCTD Vehicle, any animal unless it is completely enclosed in a carrying case, which can be accommodated in the lap of a Passenger with no danger or annoyance to other Passengers. This rule shall not apply to Service Animals; however, all Service Animals shall be properly harnessed to the extent possible. NCTD reserves the right to ask Passengers about the service status of any animal.
9. Violate a notice, prohibition, instruction, or direction on any sign that is intended to provide for the safety and security of transit Passengers, or the safe and secure operation of NCTD Facilities and NCTD Vehicles.
- ~~10. Fail or refuse to comply with any lawful order or direction of any NCTD Transit Enforcement Officer, any Peace Officer, or any contractor of NCTD acting in an official capacity, including a Private Security Officer.~~
10. Authorized Enforcement Personnel.
11. Commit any act or engage in any behavior that may, with reasonable foreseeability, cause harm or injury to any person or property.
12. Do, aid, abet, or assist in doing any act which may be dangerous, harmful, or injurious to any person or property within the NCTD Transit Facility or NCTD Vehicle, said act being not specifically prohibited herein.

Section 2.3: Unauthorized Acts with Respect to NCTD Vehicles. In addition to the above, pursuant to Public Utilities Code sections 125452 and 125453, no person in or about any NCTD Transit Facilities or NCTD Vehicles shall:

- A. Operate, interfere with, enter into, or climb on or in NCTD Transit Facilities or NCTD Vehicles without the authorization of NCTD.
- B. Loiter about NCTD Transit Facilities without the authorization of NCTD.
- C. Injure, deface, loosen, remove, or tamper with any NCTD Transit Facility or NCTD Vehicles without the authorization of NCTD.
- D. Injure, mutilate, deface, alter, change, displace, remove, or destroy any sign, notice, signal, or advertisement on any NCTD Transit Facility or NCTD Vehicles without the authorization of NCTD.
- E. Interfere with any lamp, electric light, electric fixture or wiring/conduit on any NCTD Transit Facility or NCTD Vehicles without the authorization of NCTD.

- F. Interfere with a video-recording device on any NCTD Transit Facility or NCTD Vehicles without the authorization of NCTD.
- G. Write, paint, carve, or draw any inscription or figure on or deface any NCTD Transit Facility or NCTD Vehicles without the authorization of NCTD.

Section 2.4: Proof of Fare Payment. Pursuant to Public Utilities Code section 125450, persons shall be permitted within a Fare Paid Zone or upon a NCTD Vehicle only upon payment of such Fares and while in possession of Proof of Fare Payment, and under such additional conditions as may from time to time be ordained by NCTD. It is unlawful for any person to refuse to pay, or evade or attempt to evade the payment of such Fares. No person shall evade the payment of a Fare of any NCTD Vehicle or NCTD Facility or misuse any transfer, pass, ticket, or token with the intent to evade the payment of a Fare of any NCTD Vehicle or NCTD Facility. At the request of any Authorized Enforcement Personnel~~NCTD Transit Enforcement Officer or Private Security Officer~~, any Passenger within any NCTD Vehicle or NCTD Facility or any person within any Fare Paid Zone shall provide Proof of Fare Payment.

Section 2.5: False Information. Pursuant to Public Utilities Code section 125451, no person shall give, either orally or in writing, information to any NCTD Transit Enforcement Officer~~\_if~~ that person knows that the information is false.

Section 2.6: Commercial Activities, Solicitation, and Expressive Activities. It is the policy of NCTD to reserve NCTD Vehicles and NCTD Transit Facilities for their intended travel-related purposes by limiting the use and conduct within the NCTD Vehicles and NCTD Facilities to those activities that will directly provide the traveling public with necessary services and aid the traveling public in using NCTD Vehicles and NCTD Transit Facilities for their intended travel-related purposes as quickly and efficiently as possible. NCTD Vehicles and NCTD Transit Facilities were neither designed nor intended to be used by the public at-large as forums for expressive purposes but rather were designed and intended to be used and are used to facilitate, in the best and most efficient manner possible, successful transportation of members of the traveling public.

Some groups, organizations, and persons use, have used, or wish to use NCTD Vehicles and NCTD Transit Facilities to sell goods, solicit funds and alms, request and accept monies, distribute literature and pamphlets, seek petition signatures, picket, demonstrate, display signs, conduct surveys, proselytize, or otherwise attempt to solicit information from the general public and/or NCTD personnel. The foregoing activities are conducted for purposes unrelated to transportation and contribute to congestion and significantly interfere with the efficient, effective, and safe use of those areas for their intended purposes, especially during peak hours of transit.

Recognizing that: (1) interpersonal communication and informal discussions between and among groups, organizations, and persons within NCTD Vehicles and NCTD Transit Facilities neither can nor should be prohibited, and (2) areas outside NCTD Vehicles and NCTD Transit Facilities will accommodate Expressive Activities protected by the First Amendment of the United States Constitution, the NCTD adopts the following policy with respect to such activities:

- A. No group, organization, or person shall engage in any of the following activities:

1. Commercial Activities. No person shall engage in Commercial Activities within any NCTD Transit Facility or NCTD Vehicle. This rule shall not apply to advertisements or the sale of concessions under agreement with NCTD.
  2. Solicitation. No person shall solicit goods, alms, or funds within any NCTD Transit Facility or NCTD Vehicle.
  3. Expressive Activities. Within any NCTD Transit Facility or NCTD Vehicle, no person shall conduct any Expressive Activities except in compliance with Section 2.6(8) below.
- B. Exception for Expressive Activities Conducted At Certain Times, Places, And Manner. The Expressive Activities listed therein may be conducted in compliance with all of the following guidelines:
1. TIME: Expressive Activities may not be conducted during the following times: 5:00 am to 8:30 am daily; 4:00 pm to 7:30 pm daily; during special events.
  2. PLACE: Expressive Activities may be conducted only in predetermined locations at each station as such designated areas are designated in Exhibit "1," attached hereto and incorporated herein, so as to ensure the safety and efficient passage of transit patrons and participants in special events or activities.
  3. MANNER: All participants In Expressive Activities shall familiarize themselves with and at all times shall adhere to all local, State, and Federal laws and regulations with regard to personal behavior and safety, including but not limited to, California Penal Code sections 369i, 415 and 640(b). Violations of applicable laws may result in eviction from NCTD property or arrest. In addition, no group, organization, or person shall interfere with, impede, or obstruct the safe or efficient passage of transit patrons or the work and duties of NCTD personnel.

### **Section 3: Enforcement**

Section 3.1: Authority to Enforce. Authorized Enforcement Personnel NCTD Transit Enforcement Officers are hereby empowered with the authority to patrol NCTD Vehicles and NCTD Transit Facilities for the protection of persons and property and to utilize discretion in ensuring compliance with the provisions of Section 2 above in accordance with the authority delegated to them and the instructions of NCTD, by educating the public on NCTD rules and regulations, giving warnings, or enforcing the penalties as set forth in Section 4.

Section 3.2: Authority to Arrest. Pursuant to Penal Code sections 830.14(f) and 836.5, the Board of Directors of NCTD hereby authorizes NCTD Transit Enforcement Officers, as defined in Section 1.2 of this Ordinance, to enforce the regulations contained herein and to arrest a person without a warrant whenever the NCTD Transit Enforcement Officer has reasonable cause to believe that the person to be arrested has committed a violation of any provision or provisions of Section 2 above in the presence of the NCTD Transit Enforcement Officer.

Section 3.3: Procedures. In the event a NCTD Transit Enforcement Officer arrests any person for violation of the provisions of this Ordinance pursuant to his or her authority under Section 3.2 above, the procedures set forth in Penal Code section 853.5 et seq. shall apply.

Section 3.4: Reservation of Authority to Peace Officers and Private Persons. Nothing in this Ordinance shall limit or otherwise infringe upon the authority of an authorized Peace Officer to arrest persons pursuant to applicable law, nor the authority of private persons, including private security guards, to make a citizen's arrest pursuant to Penal Code section 837.

#### **Section 4: Penalties**

Section 4.1: Violation of Section 2.1. Violation of any provision of Section 2.1 is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during his or her hours of school attendance or employment.

Section 4.2: Violation of Section 2.2. Violation of any provision of Section 2.2 is an infraction punishable by a fine not exceeding seventy-five dollars (\$75). A violation by a person after a second conviction is punishable by a fine not exceeding two hundred fifty dollars (\$250) or by community service that does not conflict with the violator's hours of school attendance or employment for a total time not to exceed 48 hours over a period not to exceed 60 days. For purposes of this section a bail forfeiture shall be deemed to be a conviction of the offense charged.

Section 4.3: Violation of Section 2.3. Violation of any provision of Section 2.3 is an infraction punishable by a fine not exceeding seventy-five dollars (\$75), except that a violation by a person, after the first conviction under this section, is a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment in the county jail not exceeding six months, or by both that fine and imprisonment. For purposes of this section a bail forfeiture shall be deemed to be a conviction of the offense charged.

Section 4.4.: Violation of Section 2.4. Violation of Section 2.4 is an infraction punishable by a fine not exceeding seventy-five dollars (\$75), except that a violation by a person, after the second conviction, shall be a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. For purposes of this section a bail forfeiture shall be deemed to be a conviction of the offense charged.

Section 4.5: Violation of Section 2.5. Violation of Section 2.5 is an infraction punishable by a fine not to exceed seventy-five dollars (\$75), except that a violation by a person, after a second conviction of a violation of this section, shall be a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) or by imprisonment in the county jail not to exceed six months, or by both the fine and imprisonment. For purposes of this section a bail forfeiture shall be deemed to be a conviction of the offense charged.

Section 4.6: Violation of Section 2.6. Violation of any provision of Section 2.6 is an infraction punishable by a fine not exceeding seventy-five dollars (\$75), except that a violation by a person, after the first conviction under this section, is a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment in the county jail not exceeding six months, or by both that fine and imprisonment. For purposes of this section a bail forfeiture shall be deemed to be a conviction of the offense charged. Any violation of Section 2.6 which

interferes with, interrupts or hinders or, if allowed to continue, would interfere with. interrupt or hinder, the safe and efficient operation of an NCTD train constitutes a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000), or by both.

Section 4.7: Violation of Multiple Provisions. A determination of violation or issuance of a citation for violation of any provision of this Ordinance or of State law shall not preclude a determination of violation of any other applicable section or provision of law. Penalties may be successive or cumulative.

Section 4.8: Fine Revenue. No revenue from fines imposed pursuant to this Section 4 shall be distributed or allocated to NCTD if prohibited by State law. In that event, fine revenue instead shall be allocated to the other entities eligible to receive those funds under existing law.

### **Section 5: General**

Section 5.1: Duty of Reasonable Care. Nothing herein contained or omitted from this Ordinance or the rules and regulations promulgated hereunder shall be construed to relieve any person whatsoever from exercising all reasonable care to avoid or prevent injury or damage to persons or property.

Section 5.2: Notification to Public. NCTD shall provide reasonable notification to the public of the activities prohibited by this Ordinance and the penalties for violations of those prohibitions.

Section 5.3: Construction. In interpretation of this Ordinance, provisions shall be construed as follows:

- A. The present tense includes the past and future tenses; and the future, the present.
- B. The masculine gender includes the feminine and neuter.
- C. The singular number includes the plural, and the plural the singular.
- D. "Shall" is mandatory and "may" is permissive.
- E. Except as otherwise expressly provided, these rules and regulations are applicable and uniform on all NCTD Vehicles and NCTD Transit Facilities and throughout the NCTD jurisdictional area.
- F. Any requirement or provision of these rules relating to any prohibited act shall respectively extend to and include the causing, procuring, aiding or abetting, directly or indirectly, of such act; or the permitting of the allowing of any minor in the custody of any person, doing any act prohibited by a provision hereof.
- G. Any act otherwise prohibited by these rules shall be lawful if performed under, by virtue of, and strictly in compliance with provisions of an agreement, permit, or license issued or approved by NCTD and to the extent authorized thereby.

- H. These rules are in addition to and supplement all applicable laws or ordinances.

Section 5.4: Severability. The provisions of this Ordinance are severable. and if any of the provisions, clauses, sentences, subsections, sections, words, or parts thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, sections, words or parts of this Ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, section, word or part had not been included therein or such person or circumstance to which the Ordinance or part thereof is held inapplicable has been specifically exempted therefrom.

Section 5.5: Effective Date. This amended Ordinance shall be effective on ~~July 21, 2016~~ June 15, 2017.

**Revisions Record:**

Date Issued	Revision Number	Comments	<u>Resolution No.</u>
12/17/2009	Adopted		
12/18/2014	1	Amended 2014	
7/21/2016	2	Amended 2016	
<u>6/15/2017</u>	<u>3</u>	<u>Amended 2017</u>	<u>17-05</u>



**NCTD ORDINANCE NO. 3  
EXHIBIT NO. 1**

Locations of Permitted Expressive Activities

Designated "Expressive Activities" locations on NCTD property:

Oceanside Transit Center:

The designated expressive activities location is the quadrangle area bordered on the west by the east edge of the Amtrak platform canopy, south by the bicycle cover lockers area, east by the planter nearest the west wall of Burger King, and north by the rock garden area.

Carlsbad Village COASTER Station:

The designated expressive activities location is the passenger drop-off area on the east side of the station between the north parking lot and the north entrance to the passenger area closest to the coffee vendor counter.

Carlsbad Poinsettia COASTER Station:

The designated expressive activities location is the passenger drop-off area east of the restrooms, between the south ramp to the platform, and extending north to the north wall of the restroom building.

Encinitas COASTER Station:

The designated expressive activities location is the area bordered by North D St. and South Vulcan Ave. on the south and east, the platform area to the west and the parking area to the north.

Solana Beach COASTER Station:

The designated expressive activities location is the sidewalk between the Amtrak station and the passenger drop-off loop off North Cedros Ave. extending from the south planters to the north planters.

Sorrento Valley COASTER Station:

The designated expressive activities location is the sidewalk area east of the platform, south of the access ramp, and under the freeway overcrossing for a distance of 55 feet south of the south edge of the access ramp.

Old Town Station and Santa Fe Depot

Old Town Station and Santa Fe Depot are not owned by NCTD; thus, NCTD cannot designate areas at these facilities.

Coast Highway SPRINTER Station:

The designated expressive activities location is the upper platform area bordered by the alley way on the east, the parking lot to the north, and the 3rd planter from the alley.

Crouch Street SPRINTER Station:

The designated expressive activities location is the sidewalk in the south parking area bordered by Crouch Street on the east, the planter on the north, and the narrowing of the walkway to the west.

El Camino Real SPRINTER Station:

The designated expressive activities location is the triangular cement area border by the parking to the west, the drive area to the north, the bicycle lockers to the south, and the ticket vending machines (TVMs) to the east.

Rancho Del Oro SPRINTER Station:

The designated expressive activities location is the sidewalk area of the parking lot on the east side of the spaces, from the driveway north to the end of the walkway.

College Blvd. SPRINTER Station:

The designated expressive activities location is the walkway area on the south of the parking lot between the planter to the west and the TVM to the east.

Melrose Drive SPRINTER Station:

The designated expressive activities location is bordered by the walkway on the south side of the parking lot, the parking spaces to the east, the fence to the south, and the access ramp to the west.

Vista Transit Center:

The designated expressive activities location is bordered by the sidewalk area just east of the SPRINTER Platform in the parking lot, north of the bicycle lockers and south of the large planter on the north side of the handicapped parking spaces.

Vista Civic Center (Escondido Ave.) SPRINTER Station:

The designated expressive activities location is the walkway bordered by Civic Center Drive on the west, the parking areas to the south, the fence to the north, and the east end of the mechanical boxes along the north side.

Buena Creek SPRINTER Station:

The designated expressive activities location is the walkway north of the platform starting at the first planter and continuing east to the east end of the westernmost canopy.

Palomar College SPRINTER Station:

The designated expressive activities location is the cement area located at the bottom of the platform steps, extending to the beginning of the drop off lane and bordered on the east by the parking spaces.

San Marcos Civic Center SPRINTER Station:

The designated expressive activities location is the walkway area on the south side of the station, bordered by the eastern most bicycle lockers to the north and west, the dirt lot (future parking lot) to the south, and the sidewalk along East San Marcos Blvd. to the east.

Cal State San Marcos SPRINTER Station:

The designated expressive activities location is the cement area located at the corner of E. Barham Drive to La Moree Road to the north and east, bordered by the planters to the west and the bicycle lockers to the south.

Nordahl SPRINTER Station:

The designated expressive activities location is the paved area north of the station between the sidewalk along W. Mission Road, from the east platform entrance to the east edge of the second canopy to the west.

Escondido Transit Center:

The designated expressive activities location is the area bordered by N. Quince St. on the east, W. Valley Parkway on the south, the south edge of the nearest tower to that intersection to the north, and the west edge of that tower to the west.

San Luis Rey Transit Center:

The designated expressive activities location is the level paved area at the west end of the property, south of the Transit Center sign, west of the raised masonry planters, and north of the concrete stairway. The area is adjacent to the intersection of North River Road and Vandergrift Boulevard.