

**S T A F F   R E P O R T**

SUBJECT: Updated Passenger Code of Conduct Policy

FROM: Mike Tobin, Director of Operations

DATE: June 27, 2023

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**Actions Requested**

This is an informational item; no action is requested at this time.

**Background**

The Passenger Code of Conduct Policy is a formalized document that includes rules & behaviors that are prohibited while riding on any of LAVTA's services or while on any LAVTA owned property and/or facilities. Proper passenger behavior on LAVTA property is essential for providing quality service to the members of our community and for ensuring safety for all transit patrons and LAVTA employees alike. Establishing a passenger code of conduct and an associated disciplinary process is a necessary component to maintain the existing high levels of service for all transit patrons.

LAVTA last updated its Passenger Code of Conduct Policy on February 2, 2015, over eight years ago. It is LAVTA's goal to regularly review and update the policy to ensure that the policy reflects ongoing trends and behaviors that are being encountered on LAVTA's transit system, and well as industry best practices. The current Code of Conduct Policy is included as Attachment 1.

**Discussion**

LAVTA has completed its review of the Code of Conduct Policy and are considering making the following updates/changes:

- Remove penal code section in beginning of the document and create a separate attachment that lists all penal codes related; add two more penal codes (both 241.3 and 243.3 are related to assault and battery, respectively, which has been a critical topic in the transit industry in recent years)
- Update the language and formatting to match the latest iteration of Penal Code 640 as the one in the old Rules of Conduct was from 2009
- Any acts described in Penal Code 640 that are standalone and straightforward (did not need to be expanded upon) are included in the Rules of Conduct document as-is (such as expectorating upon a facility or vehicle or skate boarding in a facility or vehicle)
- Add rules for boarding with folding bikes or electric scooters previously not mentioned

- Add vermin and biohazardous material to the list of things prohibited from being carried onto a bus or into a facility
- Add more extensive description for use of fares (due to longstanding issues with fare evasion: Students/ACE transfers/Others)
- All rules from Section III of the old policy were included in the new document with either the exact same language, clarified for ease of understanding, or moved to a new subsection for better grouping of topics
- Add footnotes in the primary document that references each of the applicable penal code(s) in the attachment
- Add/update language throughout the document based on review of Santa Monica and Santa Rosa’s Code of Conduct policies
- Add select language from Wheels.com website regarding how to use the service (boarding, alighting, etc.) <https://wheelsbus.com/how-to-ride/>
- Cart/Stroller policy added from <https://www.wheelsbus.com/wp-content/uploads/2015/08/StrollerBrochure1.pdf>
- Create different subsections, i.e., “Animals” and “Fares” rather than lumping everything into one section
- Expand the subsection on “Wheelchairs and Other Mobility Devices” based on recent safety issues that have been encountered with securing mobility aids
- Expand the subsection on “Carts & Strollers” to include clarifying language
- Add Section V that addresses enforcement of the policy for student riders
- Expand on Section III “Enforcement” and add Section IV “Administrative Action & Suspension” that provides a detailed overview of the progressive disciplinary process and suspension of riders from LAVTA services

Staff will solicit the Committee’s feedback during the meeting and will present the revised policy to the Board for action at the July Board meeting.

### **Recommendation**

This is an informational item; no action is requested at this time.

### **Attachments:**

1. Resolution No. 08-2015 Rules of Conduct Policy approved February 2, 2015

**LIVERMORE/AMADOR VALLEY TRANSIT AUTHORITY**

**ATTACHMENT A: RULES OF CONDUCT FOR LAVTA  
VEHICLES, FACILITIES AND PROPERTIES**

**I. PURPOSE OF POLICY**

The Livermore Amador Valley Transit Authority's (LAVTA) vehicles, facilities, and properties are intended to provide public transportation services for the benefit of the general public. To maintain public transportation services that are orderly, safe, secure, comfortable and convenient, the following Rules of Conduct for LAVTA Vehicles, Facilities and Properties (the "Rules of Conduct") have been adopted by the LAVTA Board of Directors. The Rules of Conduct are intended to regulate conduct occurring on LAVTA vehicles, within or upon LAVTA facilities and properties, and in connection with LAVTA's provision of public transportation services. LAVTA vehicles, facilities and properties include administration and operations buildings, transit centers, bus shelters, bus stops, and bus storage areas.

**II. CALIFORNIA PENAL CODE SECTION 640**

California Penal Code Section 640, including any amendments thereto, applies to LAVTA vehicles and property. As of April 1, 2009, the applicable provisions of this law read as follows:

- (a) Any of the acts described in subdivision (b) 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, when committed on or in any of the following:
- (1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code;
  - (2) Any facility of, or vehicle operated by any entity subsidized by, the Department of Transportation;
  - (3) Any leased or rented facility or vehicle for which any of the entities described in paragraph (1) or (2) incur costs of cleanup, repair, or replacement as a result of any of those acts.
- (b) (1) Evasion of the payment of any fare of the system.
- (2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

- (3) Playing sound equipment on or in any system facility or vehicle.
- (4) Smoking, eating or drinking in or on any system facility or vehicle in those areas where those activities are prohibited by that system.
- (5) Expecting upon any system facility or vehicle.
- (6) Willfully disturbing others on or in any system facility or vehicle by engaging in boisterous or unruly behavior.
- (7) Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in public transit facility or vehicle.
- (8) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.
- (9) (A) Willfully blocking the free movement of another person in a system facility or vehicle. (B) This paragraph (9) 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.
- (10) Skateboarding, roller skating, bicycle riding, or roller blading in a system facility, vehicle, or parking structure. This paragraph does not apply to any activity that is necessary for utilization of the 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 transit vehicle, if that activity is conducted with the permission of the transit agency in a manner that does not interfere with the safety of the bicyclist or other patrons of the transit facility.
- (11) (A) 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 system identification policies when entering or exiting a transit station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting. (B) In the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, any citation issued shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, the citation shall be voided. If the proof is not produced within that time period, the citation shall be processed.

### **III. LAVTA POLICY/REGULATIONS OF CONDUCT**

The following conduct is prohibited on LAVTA vehicles, within or upon LAVTA facilities and properties, and in connection with LAVTA's provision of public transportation services:

1. Destroying, defacing, or otherwise damaging LAVTA property.
2. Discarding litter other than in designated receptacles.
3. Entering a LAVTA vehicle with animals, with the exception of service animals and small pets as defined below.
  - a) According to ADA law and the U.S. Department of Justice, service animals are animals that are individually trained to perform tasks for people with disabilities such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks. Service animals are working animals, not pets.
  - b) A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the animal is out of control and the animal's owner does not take effective action to control it or (2) the animal poses a direct threat to the health or safety of others.
  - c) The passenger may travel with a small pet as long as the animal is fully enclosed in a secure container that the passenger can manage and which the passenger can hold on his/her lap or place at his/her feet. The animal must not be a danger to or annoyance to other passengers.
  - d) The passenger is responsible for any damage or injuries caused by their animal while on the bus. If any animal misbehaves, the passenger will be instructed to remove the animal from the bus at the sole discretion of the Operator.
4. Use of a Segway or other non-wheelchair mobility device, when not being used as a mobility aid by a person with a disability.
5. Bringing onto transit property personal items (i.e., packages, shopping bags, suitcases) which cannot be reasonably secured and handled by the owner and stored out of the aisle.
6. Operating, stopping, standing or parking a vehicle in any roadway or location restricted for use only by transit vehicles.

7. Extending an object or a portion of one's body through the door or window of a transit vehicle while it is in motion.
8. Bringing onto transit property odors which endanger the health and safety of others or interfere with their use of the transit system, whether such odors arise from one's person, clothes, articles, accompanying animal or any other source.
9. Carrying any alcoholic beverages or controlled substances, unless otherwise authorized by law.
10. Carrying onboard corrosives, exhibiting, displaying, or drawing any firearm, dagger, sword, knife or other cutting or stabbing instrument, club or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons, unless otherwise authorized by law (see Resolution 14-07 attached).
11. Hanging or swinging on bars or stanchions, with feet off the floor, inside a transit vehicle or other transit property; hanging onto or otherwise attaching oneself at any time to the exterior of a transit vehicle or other transit property.
12. Engaging in any sport or recreational activities on transit property.
13. Parking a vehicle in an approved parking area on transit property for more than seventy-two (72) consecutive hours.
14. Using a transit facility for residential or commercial parking purposes.
15. Performing non-emergency repairs or cleaning of a vehicle on transit property.
16. Engaging in gambling or any game of chance for the winning of money or anything of value.
17. Manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance or selling for profit any controlled substance or counterfeit substance on a LAVTA vehicle or within one thousand feet of LAVTA properties or facilities, including but not limited to, a transfer center, bus shelter, bus stop, or park and ride lots.
18. Entering a LAVTA vehicle while not wearing any type of footgear or shirt.
19. Using a public address system, loudspeaker or other sound amplifying device.
20. Sleeping, camping or storing personal property on benches and floors on or in LAVTA vehicles or LAVTA facilities and properties, unless otherwise authorized by law.

21. Entering or remaining upon any non-public areas of LAVTA facilities and properties, including but not limited to staging areas, work areas, and equipment rooms, except when authorized by LAVTA or its designee.
22. Engaging in commercial activities, except as such activities are authorized by LAVTA or its designee in a written permit, license, concession contract, lease or other written authorization.
23. Committing any act which tends to create or incite, or creates or incites, an immediate breach of peace, including, but not limited to (a) fighting, (b) racing, (c) obscene language tending to cause a breach of the peace, and (d) personally abusive epithets, or words or language of an offensive, disgusting or insulting nature, which epithets, words or language when addressed to the ordinary citizen are, as a matter of common knowledge, inherently likely to provoke a violent reaction of fear, anger or apprehension.
24. Entering LAVTA vehicles, facilities, and properties when intoxicated.
25. Refusing to allow proper securing of a wheelchair or mobility device on LAVTA vehicles.
26. Refusing to use appropriate personal restraints on a LAVTA vehicle providing paratransit services.
27. Dumping any materials whatsoever on transit property, including but not limited to chemicals and automotive fluids.
28. Throwing an object at transit property or at any person in or on transit property.
29. Falsely claiming to be a transit operator or other LAVTA employee; or through words, actions, and/or the use of clothes, insignia, or equipment resembling transit operator or LAVTA issued uniforms and equipment, creating a false impression of being a transit operator or other transit employee.

#### **IV. ENFORCEMENT**

1. Removal from LAVTA Vehicles, Facilities, and Properties

Any person engaging in prohibited conduct under the provisions of Article II may be refused entrance upon or ordered to leave LAVTA vehicles, facilities and properties by a commissioned law enforcement official.

Any person engaging in prohibited conduct under the provisions of Article III may be refused entrance upon or ordered to leave LAVTA vehicles, facilities and properties by LAVTA personnel or a contracted service provider in accordance with terms of the applicable service contract.

Failure to immediately comply with such a removal order may be grounds for prosecution for criminal trespass and/or unlawful bus conduct.

## 2. Exclusion from Service

- a) **Length of Exclusion.** The following guidelines shall be used determining the duration of a particular exclusion for engaging in prohibited conduct under the provisions of this policy. The actual exclusion period imposed may be shorter or longer depending on the circumstances of each case.
- b) **Basis for Exclusion.** Engaging in prohibited conduct may result in excluding or restricting a person from entering and using all or any part of LAVTA vehicles, facilities, and properties for a period of time.
- c) **Immediate Refusal or Removal.** A person may be immediately reseated, refused transportation, or removed from LAVTA vehicles, facilities and properties without prior written notice if the person has engaged in prohibited conduct under Article II and/or Article III which, in LAVTA's or LAVTA's designee's discretion poses a safety or security risk, interferes with or impinges on the rights of others, impedes the free flow of the general public, or impedes the orderly and efficient use of LAVTA vehicles, facilities and properties.
- d) **Appeal Procedure.** Not later than fifteen (15) calendar days after commencement of the exclusion, an excluded person may appeal in writing to the Contract Resident Manager, and then to LAVTA's Executive Director or his/her designee, for de novo review of the exclusion. The appellant may request a hearing or may request review without a hearing based on a written statement setting forth the reasons why the appellant believes exclusion is invalid or improper. If the appellant is unable to respond in written format, LAVTA will make reasonable accommodations.
  - a) **Hearing.** If the appellant does not request a hearing, the Executive Director or his/her designee shall render a written decision within five (5) business days after receipt of the appeal. If a hearing is requested, the hearing shall be held within thirty (30) calendar days of receipt of the appeal, and a written decision shall be rendered within ten (10) calendar days of the hearing. The exclusion shall remain in effect during the appeal process.
  - b) **Refusal to Comply.** The refusal to immediately comply with written or verbal notice excluding or restricting a person from LAVTA vehicles, facilities, and properties shall be grounds for prosecution for criminal trespass.

## 3. Other Laws not Limited



The enforcement of this policy herein is not intended to limit, in any manner, the enforcement of any applicable federal, state or municipal laws.

**V. APPLICATION TO INDIVIDUALS WITH DISABILITIES**

Nothing in this policy shall be applied in a manner that discriminates against individuals with disabilities. It is not discrimination to refuse to provide service to an individual with disabilities because that person engages in violent, seriously disruptive or illegal conduct. This policy shall not otherwise alter LAVTA paratransit eligibility procedures.

**VI. LIABILITY**

Nothing in this policy herein shall create a duty to any person on the part of LAVTA or form any basis for liability on the part of LAVTA, its officers, agents or employees. The obligation to comply with this policy is solely that of any person entering and using LAVTA vehicles, facilities, and properties and LAVTA's enforcement of this policy is discretionary not mandatory.

**VII. DISSEMINATION OF POLICY**

All employees, officers and officials should be given copies of this policy, and this policy shall be posted in appropriate places.