

NORTH COUNTY TRANSIT DISTRICT

ORDINANCE NO. 3

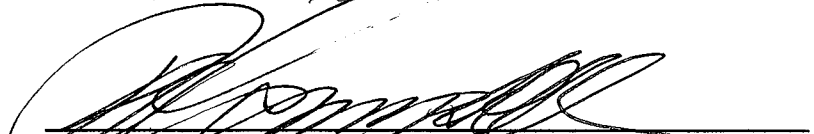
**An Ordinance Establishing Rules and Regulations and
Authorizing Designated NCTD Employees to Arrest and Issue Citations for Violation**

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

Section 1:

The Board hereby adopts the Ordinance Establishing Rules and Regulations and Authorizing Designated NCTD Employees to Arrest and Issue Citations for Violation, effective April 1, 2010, attached hereto as Exhibit A.

PASSED, APPROVED AND ADOPTED at the regular meeting of the Board of Directors of the NORTH COUNTY TRANSIT DISTRICT this 17th of December, 2009.


CHAIRMAN, North County Transit District

ATTEST:


CLERK OF THE BOARD, North County Transit District

EXHIBIT A
NORTH COUNTY TRANSIT DISTRICT
ORDINANCE NO. 3

An Ordinance Establishing Rules and Regulations and
Authorizing Designated NCTD Employees to Arrest and Issue Citations for Violation

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. State law, at 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. State law, at 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 125105(f) generally 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 12542 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 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.

Section 1.2: Definitions

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

- A. **Alcoholic Beverage.** An "Alcoholic Beverage" means alcoholic beverage, or beverages, as that term is defined in the Alcoholic Beverage Control Act, Business and Professions Code section 23000 *et seq.* as it may be amended in the future.

- B. Bicycle. A "Bicycle" is 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. Bus. A "Bus" is any motor vehicle, other than a motortruck 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. Citation. A "Citation" shall mean a written notice to appear issued pursuant to the provisions of Penal Code section 836.5.
- E. Coaster. The "Coaster" is 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.
- F. 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.
- G. Commercial Vehicle. A "Commercial Vehicle" is 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.
- H. Driver. A "Driver" is a person who drives or is in actual physical control of a vehicle.
- I. 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.
- J. Facility or Transit Facility. A "Facility" or "Transit Facility" shall mean 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.

- K. Fare. "Fare" is the amount payable for transportation upon the NCTD Facility or 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. Identification. "Identification" shall mean 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.
- M. NCTD Officer or NCTD Employee. A "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.
- N. NCTD Security Officer. A "NCTD Security Officer" shall mean an NCTD Officer or NCTD Employee who has one of the following titles: Chief of Transit Security; Code Enforcement Officer; Code Enforcement Supervisor.
- O. NCTD Vehicle. "NCTD Vehicle" shall mean one or more NCTD Busses, Trains or Commercial Vehicles owned and/or operated by NCTD.
- P. NCTD. "NCTD" shall mean the North County Transit District.
- Q. Fare Paid Zone. "Fare Paid Zone" shall mean 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.
- R. Passenger. A "Passenger" is 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 Transit Facility.
- S. Peace Officer. A "Peace Officer" is a person who meets certain requirements of law set forth in Penal Code section 830 *et seq.*
- T. Pedestrian. A "Pedestrian" is any person who is afoot or who is using a means of conveyance propelled by human power other than a Bicycle.
- U. Private Security Officer. A "Private Security Officer" is an officer or employee of a private security company under contract to provide security services to NCTD. A Private Security Officer is not an NCTD Officer or NCTD Employee.

- V. **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".
- W. **Sprinter.** The "Sprinter" is 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.
- X. **Service Animal.** A "Service Animal" means any animal trained to assist a disabled person in one or more daily life activities.
- Y. **Train.** A "Train" is a Vehicle utilized, owned, or controlled by NCTD which is operated upon rails.

Section 2: Rules and Regulations

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

- 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 Vehicle.

- B. Smoking, eating, or drinking in or on any NCTD Facility or Vehicle, except on the Coaster in accordance with applicable ordinances, rules and regulations pertaining thereto.
- C. Expectorating upon any NCTD Facility or Vehicle.
- D. Willfully disturbing others on or in any NCTD Facility or Vehicle by engaging in boisterous or unruly behavior, including loud, lewd or lascivious behavior.
- E. Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in any NCTD Facility or Vehicle.
- F. Urinating or defecating in any NCTD 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.
- G. Willfully blocking the free movement of another person in any NCTD Facility or 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.
- H. Skateboarding, roller skating, Bicycle riding, or roller blading in any NCTD Facility or 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 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 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 Transit Facility.
- I. 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 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 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. Possess an open Alcoholic Beverage container, except on the Coaster in accordance with applicable ordinances, rules and regulations pertaining thereto.
 3. Smoke or carry a lighted or smoldering pipe, cigar, cigarette, or tobacco in any form.
 4. Discard litter in or upon any NCTD Vehicle except in designated waste receptacles.
 5. Throw any object from any NCTD Vehicle.
 6. Bring, carry unto 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.
 7. Interfere in any manner whatsoever with the operator or operation of a NCTD Vehicle.
 8. 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 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 the Transit Facility.
 5. Drink any Alcoholic Beverage or possess an open Alcoholic Beverage container on any Transit Facility, except on the Coaster

in accordance with applicable ordinances, rules and regulations pertaining thereto.

6. Put his or her foot on any seat provided for any Passengers of the Transit Facility or 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 in any Transit Facility or Vehicle except in appropriate waste receptacles.
8. Bring, carry unto or convey upon the 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 Vehicles.
10. Fail or refuse to comply with any lawful order or direction of any NCTD Security Officer, any Peace Officer, or any contractor of NCTD acting in an official capacity, including a Private Security Officer.
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 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 Vehicles shall:

- A. Operate, interfere with, enter into, or climb on or in NCTD Transit Facilities or 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 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 Vehicles without the authorization of NCTD.
- E. Interfere with any lamp, electric light, electric fixture or wiring/conduit on any NCTD Transit Facility or Vehicles without the authorization of NCTD.
- F. Interfere with a video-recording device on any NCTD Transit Facility or Vehicles without the authorization of NCTD.
- G. Write, paint, carve, or draw any inscription or figure on or deface any NCTD Transit Facility or 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 Facility or misuse any transfer, pass, ticket, or token with the intent to evade the payment of a Fare of any NCTD Vehicle or Facility. At the request of any NCTD Security Officer or Private Security Officer, any Passenger within any NCTD Vehicle or 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 Security 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 Transit Facilities for their intended travel-related purposes by limiting the use and conduct within the Vehicles and Facilities to those activities that will directly provide the traveling public with necessary services and aid the traveling public in using NCTD Vehicles and Transit Facilities for their intended travel-related purposes as quickly and efficiently as possible. NCTD Vehicles and 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 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 which 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 Transit Facilities neither can nor should be prohibited, and (2) areas outside NCTD Vehicles and 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 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 Vehicle.
 3. Expressive Activities. Within any NCTD Transit Facility or Vehicle, no person shall conduct any Expressive Activities except in compliance with Section 2.6(B) 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 "A," 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: Duty to Enforce. NCTD Security Officers and Private Security Officers are hereby charged with the duty to patrol NCTD Vehicles and Transit Facilities for the protection of persons and property and to enforce the provisions of Section 2 above in accordance with the authority delegated to them and the instructions of NCTD.

Section 3.2: Authority to Arrest. Pursuant to Penal Code section 836.5, the Board of Directors of NCTD hereby authorizes NCTD Security Officers, as defined in Section 1.2 of this Ordinance, to arrest a person without a warrant whenever the NCTD Security 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 Security Officer.

Section 3.3: Procedures. In the event a NCTD Security 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 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 Ordinance shall be effective immediately upon adoption by the Board of Directors of NCTD.

EXHIBIT "A"

Locations of Permitted Expressive Activities