

SAN DIEGO METROPOLITAN TRANSIT SYSTEM

Public Hearing for:

Amendments to MTS Ordinance No. 5, An Ordinance Relating to the Enforcement Authorities of Code Compliance Inspectors, Assistant Code Compliance Supervisors, the Code Compliance Inspection Supervisor, and Taxicab Inspectors I & II

The San Diego Metropolitan Transit System (MTS) Board of Directors will hold a Public Hearing for amendments to MTS Ordinance No. 5. If approved, the action by MTS Board of Directors would be to adopt the proposed amendments to MTS Ordinance No. 5, which include revising position titles and enforcement authorities of designated MTS employees.

The Public Hearing will be held on June 20, 2024 at 9:00a.m., James R. Mills Building, 10TH Floor, Board Meeting Room; 1255 Imperial Avenue, San Diego, CA, 92101-7490. The public may alternatively participate via webinar during the meeting itself. Instructions for joining the webinar can be found under Agenda & Materials in the link below. Those who wish to submit remarks but cannot participate in the Public Hearing may provide their comments to MTS no later than 4pm, June 19, 2024, by writing to Dalia Gonzalez, 1255 Imperial Ave. Suite 1000, San Diego CA 92101, or by email at clerkoftheboard@sdmts.com.

In-person inspection of the materials are available upon request at the MTS Transit Store located at 1255 Imperial Ave. San Diego CA 92101. Business hours are Monday – Friday from 8 a.m. – 5 p.m. A 24-hour digital copy of the materials shall be posted 15 days prior to the hearing on the MTS website, and can be accessed by following the link below.

<https://www.sdmts.com/about/meetings-and-agendas/board-meetings>



SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD
(also known as San Diego Metropolitan Transit System)

CODIFIED ORDINANCE NO. 5
(as amended ~~5/12/2016~~ 6/20/2024)

An Ordinance Relating to the Enforcement
Authorities of ~~Designated MTS Employees Code Compliance Inspectors,
Assistant Code Compliance Supervisors,
the Code Compliance Inspection Supervisor,
and Taxicab Inspectors I & II~~

The Board of Directors of the San Diego Metropolitan Transit System (MTS) do ordain as follows:

Section 5.1 Statutory Authorities

A. ~~MTS The Metropolitan Transit System~~ has been created by State law (Public Utilities Code Section 120000 through ~~420541~~ 120702) as a public agency with the authority and duty to plan and construct exclusive public mass transit guideways (Section 120260) and to acquire, construct, maintain, and operate or let a contract to operate public transit systems and related transportation facilities and services (Section 120264).

B. Additionally, the Board is vested with the duty to adopt all ordinances and make all rules and regulations proper and necessary to regulate the use, operation, and maintenance of its property and facilities, including its public transit systems and related transportation facilities and services (Section 120105). ~~The violation of any ordinance, rule, or regulation enacted by the Board relating to evasion of fares in any transit facility owned or controlled by the Board is an infraction and upon a violation after the second conviction is a misdemeanor (Section 120450).~~

~~C. The provision of information known to be false to a Code Compliance Inspector, Assistant Code Compliance Supervisor, the Code Compliance Inspection Supervisor, or the Transit Security Administrator (hereinafter cumulatively referred to as Inspectors) is similarly an infraction or misdemeanor (Section 120450.5).~~

~~D. The violation of any ordinance, rule, or regulation prohibiting unauthorized operation or manipulation of transit facilities or prohibiting unauthorized tampering or interference with transit facilities is similarly an infraction or misdemeanor (Section 120451).~~

~~E. The violation of any ordinance, rule, or regulation prohibiting the unauthorized entering into, climbing upon, holding onto, or in any manner attaching oneself to vehicles operated upon exclusive public mass transit guideways is an infraction or misdemeanor (Section 120452).~~

F. In implementation of those provisions of State law, the Board has adopted MTS Ordinance No. 13, prohibiting specified conduct onboard transit vehicles and prohibiting specified actions on or about the transit facilities. The Board has further adopted MTS Ordinance No. 2, requiring proof of fare payment by passengers using the San Diego Trolley and MTS Ordinance No. 3, regulating parking in ~~the San Diego Trolley~~ MTS parking lots and other transit facilities.

G. The Board is authorized to contract with ~~cities and the County~~ any city in the County of San Diego to license or regulate by ordinance any ~~for-hire vehicle transportation services rendered wholly within such cities the city's corporate limits~~ or within the unincorporated area (Section 120266) and has done so by adoption of ~~MTS~~ Ordinance No. 11, the enforcement of which will be done by ~~Taxicab For-Hire Vehicle Administration Regulatory Inspectors and Regulatory Supervisors I & II, and other Taxicab Administration staff designated in Section 5.3.~~

H. Pursuant to Penal Code Section 836.5, the Board may authorize public officers and employees to arrest a person without warrant, including officers and employees of a nonprofit transit corporation wholly owned by a local agency and formed to carry out the purposes of the local agency and San Diego Trolley, Inc., is such a corporation.

- ~~(Section 5.1 amended 6/20/2024)~~
- ~~(Section 5.1 amended 11/15/2012)~~
- ~~(Section 5.1 amended 7/12/2001)~~
- ~~(Section 5.1 amended 9/26/1996)~~
- ~~(Section 5.1 amended 1/11/1996)~~
- ~~(Section 5.1 amended 11/10/1994)~~
- ~~(Section 5.1 amended 8/12/1993)~~

Section 5.2 Purposes

In view of the multitude of regulations applicable to the facilities and vehicles of ~~MTS, the San Diego Metropolitan Transit Development Board,~~ it is desirable to clarify and specify the authority of ~~the Inspectors designated MTS employees,~~ relative to various acts committed on or about the property and vehicles.

- ~~(Section 5.2 amended 6/20/2024)~~

Section 5.3 Duties and Authorizations

A. ~~Code Compliance Inspectors, Code Compliance Supervisors, Code Compliance Investigators, Assistant Field Operations Managers, and Field Operations Managers Inspectors~~ employed by the San Diego Metropolitan Transit System (MTS) and ~~Inspectors employed by San Diego Trolley, MTS Inc.,~~ are hereby vested with the duty to enforce MTS Ordinances No. 2, No. 3, ~~No. 4,~~ No. 11, and No. 13 and the following code sections:

- ~~1. Business and Professions Code Sections 4140 and 25662;~~
- ~~2. Health and Safety Code Sections 11364 and 11357(b), and 11532;~~
- ~~3. Public Utilities Code Sections 5411.5, 120450, 120450.5, 120451, and 120452;~~
- ~~4. Penal Code Sections 148, 219.2, 242, 308(b), 314, 369(g), 417.25(a), 470(a), 481.1, 555.1, 555.2, 587(a), 594, 594.1, 594.2, 594.4, 602(f), 602(o), 602(q), 640, 640(a), 640.5, 647(a), 647(c), and 647(j), and 653(k);~~
- ~~5. Vehicle Code Sections 5204(a), 21456, 21461(a), 21955, 22500, 22507, 22521, and 22526;~~
- ~~6. San Diego City Municipal Code Sections 56.54 (at transit facilities owned, controlled, or used by the Board, including but not limited to transit centers, rail stations, bus shelters, and bus stops on public and private property), 58.05(b)(1), and 58.05(b)(2), and 36.0101 to 36.0115; and~~

Commented [KL1]: BPC 4140 (possession of hypodermic needles etc) was repealed by SB 41 (2011)

Commented [KL2]: BPC 25662 - minor in possession of alcoholic beverage in a public place

Commented [KL3]: HSC 11364 - possession of opium pipe or other drug paraphernalia used to inject or smoke a controlled substance

Commented [KL4]: HSC 11357(b) - possession of MORE THAN 28.5 g of cannabis or 8 g concentrated cannabis

Commented [KL5]: HSC 11532 - loitering with intent to commit drug-related activity

Commented [KL6]: PUC 5411.5 - impounding of vehicle if operating charter carrier or taxicab without a permit

Commented [KL7]: MTS Enabling Legislation
PUC 12450 - violation of MTS ordinance re nonpayment of fare
PUC 120450.5 - providing false information to MTS officer
PUC 120451 - violating MTS ordinance 13 re unauthorized use, tampering, interference, loitering at MST transit facilities, shelters, bus stops, etc.
PUC 120452 - violating MTS ordinance 31 re unauthorized entering, climbing, etc on trolleys

Commented [KL8]: Penal Code:
148 - willfully resist, delay, obstruct officer etc
219.2 - willfully throw etc stone or other hard object at trolley or bus
242: battery is any willful and unlawful use of force or violence upon the person of another
308(b) - sale of tobacco without reqd notice re no sale to under 21
314 - lewd acts in public (1st act: misdemeanor; 2nd act: felony)
369g - w/o auth rides, drives etc any vehicle on rail track
417.25(a) - aim or point laser scope at another person in threatening manner
470(a) - w/ intent to defraud, sign the name of another person or fictitious person to [list of documents - includes check, contract, passage ticket, etc]
481.1 - counterfeit fare media

Commented [KL9]: Vehicle Code
5204(a) - expired vehicle registration sticker
21456 - ped xing on WALK, WAIT, DON'T WALK signals - revised eff 1/1/2024 - officer shall not stop a pedestrian for violation "unless a reasonably careful person would realize the"

Commented [KL10]: SD Municipal Code
56.54 - No public consumption of alcoholic beverages
58.05 - daytime loitering of juveniles in a public place (8:30am-1:30pm during school days)

7. San Diego County Code of Regulatory Ordinances ~~Section 32.4303~~703.

In accordance with Penal Code Section 836.5, ~~Code Compliance Inspectors, Code Compliance Supervisors, Code Compliance Investigators, Assistant Field Operations Managers, and Field Operations Managers Inspectors~~ employed by MTS are authorized to arrest a person without a warrant whenever ~~an Inspector has they have~~ reasonable cause to believe that the person to be arrested has committed an infraction or misdemeanor in ~~the Inspector's~~their presence which is a violation of the statutes and ordinances which ~~he or she has they have~~ the duty to enforce.

B. ~~Taxicab For-Hire Vehicle Administration~~ Regulatory Inspectors ~~and Regulatory Supervisors, Regulatory Analysts, and the Taxicab Administrator,~~ employed by MTS, are hereby vested with the duty to enforce MTS Ordinances Nos. ~~3, 5 and No. 11, and No. 13~~ and the following code sections:

1. ~~Government Code Section 53075.5 (i)(1);~~
2. ~~Penal Code Section 654.1;~~
3. ~~Public Utilities Code sections Sections 5360.5, 5371, -5379, 5381.5, 5386.5, 5411; and~~
4. ~~California Public Utilities Commission General Order 157-D-E Sections 3.01 and 3.03;~~
5. ~~San Diego County Regional Airport Authority (SDCRAA) 9.13(a), San Diego Municipal Code (SDMC) 31.0121, 33.1406 and 86.0105; and~~
5. ~~California Vehicle Code Sections 4000(a)(1) per 260(a), 16502(a), 5204(a), 21100.4, 22507.8, 23123 and 23123.5.~~

In accordance with Penal Code Section 836.5, ~~Taxicab For-Hire Vehicle Administration~~ Regulatory Inspectors ~~and Regulatory Supervisors, and the Taxicab Administrator,~~ employed by MTS are authorized to arrest a person without a warrant whenever ~~a Taxicab they have~~Inspector has reasonable cause to believe that the person to be arrested has committed an infraction or misdemeanor in ~~the Inspector's~~their presence which is a violation of the statutes and ordinances which ~~he or she has they have~~ the duty to enforce.

Commented [KL11]: County Regulatory Code: 32.1303 re Daytime Loitering of Juveniles was re-codified as 32.703 in 2009

Commented [SL12]: Gov Code 53075.5(i)(1) - taxicabs must have a permit in order to operate in a jurisdiction it is substantially located in

Commented [KL13]: Penal Code 654.1 - unlawful to offer transportation on an individual fare basis without certificate or permit

Commented [KL14]: Public Utilities Code 5360.5 - charter carriers shall operate on a prearranged basis
5371 - non transit agency charter-party carriers shall not engage in transportation services w/o a CPUC certificate
5379 - unlawful to operate charter-party carrier services with a canceled or revoked permit
5381.5 - CPUC to require waybill or trip report with specified info
5386.5 - charter-party carrier shall not advertise as a taxi service
5411 - violation of charter-party carrier rules is a misdemeanor +fine

Commented [KL15]: CPUC General Order 157-D superseded by 157-E effective 10/31/2019.
3.01 - CPUC prearranged trip rule
3.03 - no advertising as a taxi service rule

Commented [KL16]: Could not find a SDCRAA Policy 9.13. SDCRAA has also requested that MTS FHVA not conduct enforcement actions at the airport.

Commented [KL17]: San Diego Municipal Code 31.0121 - business/occupations require a SD business certificate
33.1406 - prohibiting solicitors in peddlers in certain areas of SD, including near SYPOE from east line of SDAE ROW to Virginia Ave
86.0105 - stop, stand, or park in passenger loading zone

Commented [KL18]: Vehicle Code
400(a)(1) - drive, move, leave standing upon a highway or offstreet public parking facility an unregistered vehicle, etc.
260(a) - defines a "commercial vehicle" as being for transportations of persons or property for hire
NOTE "per 260(a)" is confusing and unclear here
16502(a) - vehicle owner shall maintain proof of financial responsibility before it is used in a business that transports people or property
5204 - vehicle required to have registration sticker showing month/year of expiration
21100.4 - warrant may be issued to impound unlicensed taxicab
22507.8 - unlawful to park in disabled parking spot without special plate or placard
23123 - unlawful to operate vehicle while using a mobile phone unless configured for handsfree talking and listening

C. Right-of-Way Agents, designated by the ~~General Manager~~ Chief Executive Officer and employed by MTS are hereby vested with the duty to enforce MTS Ordinance No. 3 and, in accordance with Penal Code Section 836.5, are authorized to arrest a person without a warrant whenever an agent has reasonable cause to believe that the person to be arrested has committed an infraction or misdemeanor in the Agent's presence which is a violation of the statutes and ordinances which ~~he or she has~~ they have the duty to enforce.

- (Section 5.3 amended 6/20/2024)
- (Section 5.3 amended 5/12/2016)
- (Section 5.3 amended 9/17/2015)
- (Section 5.3 amended 11/15/2012)
- (Section 5.3 amended 10/28/2004)
- (Section 5.3 amended 10/3/2002)
- (Section 5.3 amended 7/12/2001)
- (Section 5.3 amended 3/23/2000)
- (Section 5.3 amended 9/26/1996)
- (Section 5.3 amended 1/11/1996)
- (Section 5.3 amended 11/10/1994)
- (Section 5.3 amended 8/12/1993)

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.

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| Adopted: 7/25/1983 | Amended: 11/15/2012 |
| Amended: 2/27/1984 | Amended: 9/17/2015 |
| Amended: 10/4/1984 | Amended: 5/12/2016 |
| Amended: 10/13/1988 | <u>Amended: 6/20/2024</u> |
| Amended: 2/8/1990 | |
| Repealed & Readopted: 12/12/1991 | |
| Amended: 8/12/1993 | |
| Amended: 11/10/1994 | |
| Amended: 1/11/1996 | |
| Amended: 9/26/1996 | |
| Amended: 3/23/2000 | |
| Amended: 8/9/2001 | |
| Amended: 10/3/2002 | |
| Amended: 10/28/2004 | |
| Amended: 6/28/2007 | |