



Metro

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.20
metro.net

36

**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
MARCH 20, 2014**

SUBJECT: CUSTOMER CODE OF CONDUCT AMENDMENTS – TRANSIT COURT

ACTION: APPROVE AMENDMENTS TO ADMINISTRATIVE CODE

RECOMMENDATION

1. Approve amendment of Title 6, Chapter 6-05 of the Los Angeles County Metropolitan Transportation Authority ("Metro") Administrative Code (the "Code"), otherwise known as the Metro Customer Code of Conduct, as set forth in Attachment A. The amended Code will become effective April 1, 2014; and
2. Authorize the Chief Hearing Officer to amend the footnotes/endnotes to the Administrative Code in order to conform to non-substantive changes in statutory authority references from time to time. The authority will become effective April 1, 2014

DISCUSSION

Proposed amendments to the Code are set forth in Attachment A to this Board Report address several areas:

1. E-Cigarettes

With the increased popularity and use of electronic cigarettes ("e-cigarettes") there have been requests from the public, law enforcement, and staff to clarify that the use of an e-cigarette is within the definition of "smoking" under the Code. The current provision on smoking is codified under section 6-05-110 where "smoking, or carrying a lit cigar, cigarette, or pipe" is prohibited.

Our research indicates that municipalities locally and across the nation are all restricting e-cigarettes in a manner consistent with other smoking activities, such as cigarettes or cigars.

E-cigarettes are battery-powered devices which simulate tobacco smoking and generally use a heating element that vaporizes the solution that it contains. E-cigarettes may contain various levels of nicotine and come in many flavors. The Code

restricts the activity of smoking, without regard to the method or substance. While we believe E-cigarettes are within the restrictions of the Code, to be clear, the Code is proposed to be amended as set forth in Attachment A to clarify the restriction and address this matter by adding “vaping” to “smoking.”

The proposed amendment will change section 6-05-110 to add the bolded underlined words as follows:

LACMTA Administrative Code section 6-05-110

The following acts are prohibited in Metro facilities and vehicles:

A. Eating, drinking, smoking, **vaping**, or carrying a lit cigar, cigarette **of any type**, or pipe, except in designated areas permitting that activity. [...]

G. Smoking **or vaping** is also not allowed within 20 feet of any Metro facility entrance, exit or operable window.

2. Community Service

The Code currently includes two options available to cited individuals who are experiencing financial difficulty and provide evidence of an inability to pay their fines. These are the installment payment plan and completion of the Transit School tutorial.

The Board has encouraged Transit Court staff to develop a community service option as well. Methods, sources and procedures to offer this further option have been developed. Authority to carry out this option is necessary and appropriate to adopt in the Code.

Therefore we propose amending the Code as set forth in Attachment A to add a third option, that is permitted pursuant to Vehicle Code section 40215(c)(7) and Public Utilities Code section 99580(c)(6), giving the Transit Court Hearing Officers the authority to order community service in lieu of all or a portion of the payment of fines when requested by the person cited and according the Metro Transit Court policies and procedures.

Community service will be administered through a service provider such as Volunteer Los Angeles, which handles cases for the Los Angeles Superior Court. The amount of community service ordered will depend upon the amount of the fine. For example, a transit citation fine of seventy-five dollars (\$75) might result in an order to complete Transit School and five hours of community service within 90 days in lieu of payment of the fine.

The proposed amendment will change section 6-05-240(B)(3) to add the bolded underlined words as follows:

(d) Following a determination by a hearing officer that **there is sufficient evidence that** a person did commit the violation, the hearing officer may,

where the person has established an inability to pay, permit **pursuant to Metro Transit Court policies and procedures, order** payment in installments, **transit school, and/or community service or other remedies.** Where it is determined that circumstances exist such that the dismissal of the notice of violation would best serve the interests of justice the Hearing officer may dismiss the notice of violation and shall provide written reasons in support of that decision. The Hearing Officer shall have the power and authority to make rulings in the interests of justice within the law and Metro policies concerning notices of violation and the adjudication of hearings including the granting of eligibility to attend Metro's Transit School for the purpose of reducing any penalty payment, **perform community service in lieu of all or a portion of the payment of fines,** or other remedy. [...]

(f) **Transit Court shall retain jurisdiction pending completion of any order by the Transit Court but this shall not toll the period for appeal to Superior Court following the initial order of the Transit Court.** The hearing officer's decision at administrative review is final except as otherwise provided by law.

3. Definitions – Peak Hours

We propose to amend the definition of "Peak hours" to conform to current Metro policies.

The proposed amendment will change section 6-05-020(M) to add the bolded underlined words as follows:

LACMTA Administrative Code section 6-05-020(M)
M. "Peak hours" means 6:30 a.m. to ~~8:30 a.m.~~**9:00 a.m.** and 4:30 p.m.~~3:00 p.m.~~**to 6:30 p.m.7:00 p.m.** Monday through Friday.

The amendments are set forth in Attachment A to this Board Report.

4. Endnotes

The Code has gone through several amendments since it was enacted on July 22, 2010. Various California statutes have also changed numbering. The endnotes to the Code need to be updated to provide the most up to date source information and references to statutes that are useful or provide guidance concerning the provisions that appears in the Code. For example, certain statutes may have been repealed, and therefore any references made in our Administrative Code to that repealed statute must be corrected. Endnotes are merely helpful notations for the reader. Therefore, we propose authorizing the Chief Hearing Officer to amend the endnotes or footnotes to reference the most current versions of any sources or statutes from time to time. This authority will enable the Chief Hearing Officer to make updates to endnotes and footnotes to ensure any statutory references are accurate and current.

ALTERNATIVES CONSIDERED

With respect to e-cigarettes, we considered whether e-cigarettes might be treated differently than other smoking activities, but determined that it is impractical for Operations and law enforcement personnel to investigate and distinguish between substances, methods, or types of smoking.

Not offering community service was considered, but that does not address the reality of some of our patrons' financial circumstances and community service is at least rehabilitative and of benefit to the community.

SAFETY IMPACTS

The recommendations in this Board Report promote a safe and secure public transit system.

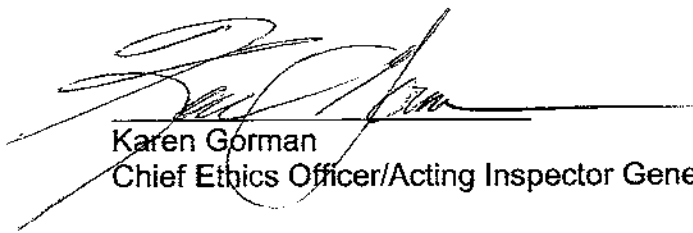
NEXT STEPS

Following Board approval of the recommended amendments to the Code, Transit Court staff will continue to work with Metro Communications and Operations, as well as the Los Angeles County Sheriff's Department, to communicate the Code including amendments to the public to promote awareness, compliance, and enforcement.

ATTACHMENTS

- A. Code Amendments for E-Cigarettes, Community Service, and Peak Hours.

Prepared by: Julie Chang, Principal Hearing Officer, Metro Transit Court

A handwritten signature in black ink, appearing to read 'Karen Gorman', is written over a horizontal line. The signature is stylized and cursive.

Karen Gorman
Chief Ethics Officer/Acting Inspector General

ATTACHMENT A

CODE AMENDMENTS FOR E-CIGARETTES, COMMUNITY SERVICE, AND PEAK HOURS

LACMTA Administrative Code section 6-05-110

The following acts are prohibited in Metro facilities and vehicles:

A. Eating, drinking, smoking, **vaping**, or carrying a lit cigar, cigarette **of any type**, or pipe, except in designated areas permitting that activity. [...]

G. Smoking **or vaping** is also not allowed within 20 feet of any Metro facility entrance, exit or operable window.

LACMTA Administrative Code section 6-05-240(B)(3)

(d) Following a determination by a hearing officer that **there is sufficient evidence that** a person did commit the violation, the hearing officer may, ~~where the person has established an inability to pay, permit~~ **pursuant to Metro Transit Court policies and procedures, order** payment in installments, **transit school, and/or community service.** Where it is determined that circumstances exist such that the dismissal of the notice of violation would best serve the interests of justice the Hearing officer may dismiss the notice of violation and shall provide written reasons in support of that decision. The Hearing Officer shall have the power and authority to make rulings in the interests of justice within the law and Metro policies concerning notices of violation and the adjudication of hearings including the granting of eligibility to attend Metro's Transit School for the purpose of reducing any penalty payment, **perform community service in lieu of of all or a portion of the payment of fines,** or other remedy. [...]

(f) **Transit Court shall retain jurisdiction pending completion of any order by the Transit Court but this shall not toll the period for appeal to Superior Court following the initial order of the Transit Court.** The hearing officer's decision at administrative review is final except as otherwise provided by law.

LACMTA Administrative Code section 6-05-020(M)

M. "Peak hours" means 6:30 a.m. to ~~8:30 a.m.~~ **9:00 a.m.** and 4:30 p.m. ~~3:00 p.m.~~ to ~~6:30 p.m.~~ **7:00 p.m.** Monday through Friday.