

REGULATIONS GOVERNING CONDUCT ON ALBANY TRANSIT AND LINN-BENTON LOOP PROPERTY AND VEHICLES

Purpose. For the safety, convenience, and comfort of Albany Transit and Linn-Benton Loop Vehicle passengers; the safety of Albany Transit and Linn-Benton Loop personnel and the region; the preservation of service quality in pursuit of the Albany Transit and Linn-Benton Loop's duty to provide a cost-effective source of reliable transportation; and to prevent system security vulnerabilities, it is necessary to establish rules and regulations governing conduct on Albany Transit and Linn-Benton Loop property.

Definitions. As used in this Chapter, unless the context requires otherwise:

A. "Albany Transit and Linn-Benton Loop" means public transportation provided by the City of Albany, Oregon

B. "Albany Transit and Linn-Benton Loop Parking Facility" includes any Albany Transit and Linn-Benton Loop-operated parking lot and park-and-ride lot and adjoining walkways.

C. "Albany Transit and Linn-Benton Loop Station" includes a "transit station," "transit center," bus passenger shelter and awnings, and a light rail or commuter rail passenger platform including shelters, awnings, adjoining stairways, ramps, and elevators.

D. "Albany Transit and Linn-Benton Loop Transit System" means the property, equipment, and improvements of whatever nature owned, leased, maintained, controlled, or operated by the Albany Transit and Linn-Benton Loop to provide mass transportation for passengers or to provide for the movement of people, and includes any Albany Transit and Linn-Benton Loop Vehicle, Albany Transit and Linn-Benton Loop Station, Albany Transit and Linn-Benton Loop Parking Facility, and Albany Transit and Linn-Benton Loop right-of-way.

E. "Albany Transit and Linn-Benton Loop Vehicle" includes a bus, van, or other vehicle used to transport passengers and owned or operated by or on behalf of the Albany Transit and Linn-Benton Loop.

F. "Emergency" means an on-board Albany Transit and Linn-Benton Loop incident that presents the risk of actual or threatened serious physical injury to persons, any apparently urgent medical need, or any other circumstance in which the Public Works Director has declared a state of emergency.

G. "Exclusion Administrator" includes any persons designated by the Public Works Director to conduct an internal agency administrative review of exclusion notices.

H. "Hearings Officer" includes any person designated by the Public Works Director to conduct exclusion hearings.

I. "Interdiction Command" means a written directive by a peace officer, or any other person authorized in writing by the Public Works Director, issued to a person violating the City of Albany Code, in order to address a safety threat to persons upon the Albany Transit and Linn-Benton Loop Transit System or in response to conduct that disrupts the order and security of the Albany Transit and Linn-Benton Loop Transit System, that directs a person to depart a City of Albany location or Albany Transit and Linn-Benton Loop Vehicle and avoid reentry or directs that an individual avoid contact or communication with an identified City of Albany employee or contractor for a temporary period as prescribed by Administrative Rules promulgated by the Public Works Director.

J. "Peace Officer" includes a City of Albany police officer, sheriff, constable, marshal, municipal police officer, member of the Oregon State Police, or investigator of the Criminal Justice Division of the Oregon Department of Justice, and such other persons as may be designated by law.

K. "Qualified Exclusion" means an exclusion which excludes a person from use of the Albany Transit and Linn-Benton Loop Transit System except for specific use for travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing, and necessary household items, or for accessing any critical services.

L. "Service Animal" means any dog or horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition. The Public Works Director is authorized to make exception for an animal, however, that is individually trained to do work or perform tasks as defined above for the benefit of an individual with a disability, and to promulgate administrative rules as appropriate.

M. "Transit Dependent" means a person who has no independent source of transportation and relies solely on public transit for local movement and access.

Regulations:

Prohibited Activities on Albany Transit and Linn-Benton Loop Transit System:

- (1) Failure to Vacate Elderly and Disabled Priority Seating: No person shall fail to vacate seats on an Albany Transit and Linn-Benton Loop Vehicle designated for use by individuals with disabilities and those qualified for senior citizen discount transit fares, when requested to do so by a peace officer or any Albany Transit and Linn-Benton Loop employee.
- (2) Smoking: No person shall smoke an electronic cigarette, tobacco, or any other substance, or shall carry any lighted or smoldering substance, in any form aboard an Albany Transit and Linn-Benton Loop Vehicle, or within 10 feet of any space or area where posted signage prohibits smoking.
- (3) Food: No person shall consume food aboard an Albany Transit and Linn-Benton Loop Vehicle.
- (4) Beverages: No person shall bring or carry aboard an Albany Transit and Linn-Benton Loop Vehicle beverages in open containers or containers with loose fitting lids. Beverage containers with screw top lids are allowed.
- (5) Radios, Compact Disk Players, and other Sound-Emitting Devices without Earphones: No person except a peace officer, firefighter, Albany Transit and Linn-Benton Loop employee, or emergency response professional, in the course of employment, shall operate a radio, compact disk player, cellular phone, MP3 player, video player or other sound-emitting device, aboard any Albany Transit and Linn-Benton Loop Vehicle or in or upon any Albany Transit and Linn-Benton Loop Station, unless the only sound produced by such item is emitted by a personal listening attachment (earphone) audible only to the person carrying the device producing the sound.

- (6) Shopping Carts and Unfolded Carriages or Strollers:
- (a) Carriages or strollers must remain folded while aboard any Albany Transit and Linn-Benton Loop Vehicle.
 - (b) No person shall bring or carry a commercial shopping cart, or any wagon aboard any type of Albany Transit and Linn-Benton Loop Vehicle. Non-commercial, individual-sized, 2-wheeled grocery storage carts are allowed provided they do not block aisles, stairways, or doorways. Noncommercial grocery carts must not exceed 30 inches in height, and 18 inches in width, and 18 inches in depth.
 - (c) No person shall abandon a commercial shopping cart upon an Albany Transit and Linn-Benton Loop Station or Albany Transit and Linn-Benton Loop Facility.
- (7) Animals No person shall bring or carry aboard an animal on any Albany Transit and Linn-Benton Loop Vehicle except.
- (a) Service Animals: A person accompanied by a Service Animal or a person training a Service Animal, so long as the animal is under the control of its handler, housebroken and restrained by leash, harness or other device made for the purpose of controlling the movement of an animal.
 - (b) Pets: A person transporting a pet if:
 - (i.) the animal is kept and held at all times within a secure container appropriate and constructed for carrying the size and type of animal;
 - (ii.) the container does not block an aisle, stairway, or doorway;
 - (iii.) the animal can be transported without risk of injury to the animal and without risk of harm or inconvenience to other riders or Albany Transit and Linn-Benton Loop personnel.
 - (c) Police Dogs: A trained police dog accompanied by a peace officer.
- (8) Noxious Fumes or Foul-Smelling Materials or Substances: No person shall carry aboard an Albany Transit and Linn-Benton Loop Vehicle any substance or material emitting a foul smell or releasing noxious fumes.
- (9) Oversized Packages: No person shall bring or carry aboard an Albany Transit and Linn-Benton Loop Vehicle any package or article of a size which will block any aisle or stairway on the vehicle.
- (10) Skateboards, Roller skates and In-line Skates: No person shall ride a skateboard, in-line skates, or roller-skates upon an Albany Transit and Linn-Benton Loop Vehicle.
- (11) A Bicycles: Bicycle racks are provided as a convenience to Albany Transit and Linn-Benton Loop customers. Bicycle racks are first come first serve. Drivers will not physically assist customers with securing a bicycle onto or off a bike rack. Motorized or odd sized bicycles that do not fit on the bike racks will not be accommodated. Bicycles will not be allowed inside Albany Transit and Linn-Benton Loop vehicles except on the final run of the night and only if the bicycle can be secured in the wheelchair securement area and the securement area is not needed for a passenger. Folding bicycles will be allowed inside the vehicle if they do not block aisles or doorways. No person shall ride a bicycle upon an Albany Transit and Linn-Benton Loop Vehicle.
- (12) Scooters Two-wheel electric scooters may be brought inside the vehicle as long as they can be stored safely out of the aiseways and stairs. Two-wheel scooters too large to store out of the aiseways will be treated as bicycles and must fit on the bicycle rack.
- (13) Corrosive and Soiling Substances: No person shall carry upon an Albany Transit and Linn-Benton Loop Vehicle any corrosive material or soiling substance where containment of such substance cannot be guaranteed.
- (14) Excessive Noise: No person shall:
- (a) Make excessive or unnecessary noise, including boisterous and unreasonably loud conduct, within any Albany Transit and Linn-Benton Loop Vehicle or Albany Transit and Linn-Benton Loop

- Station with the intent to cause inconvenience, annoyance, or alarm to the public, with a reckless disregard to the risk thereof; or
- (b) Perform vocal or instrumental music, without the prior written authorization of the Albany Transit and Linn-Benton Loop.
- (1) Display of Lights: No person shall light a flashlight, scope light, or laser light or object that projects a flashing light or emits beam of light while inside an Albany Transit and Linn-Benton Loop Vehicle, except in an emergency.
- (15) Improper Use of Seating: No person shall:
- (a) Lie down on or across the seats of an Albany Transit and Linn-Benton Loop Station or Albany Transit and Linn-Benton Loop Vehicle.
- (b) Place any object or substance on the seats of any Albany Transit and Linn-Benton Loop Station or Albany Transit and Linn-Benton Loop Vehicle that inhibits the proper use of such seats; or
- (c) Block or obstruct the use of the seats of an Albany Transit and Linn-Benton Loop Station or Albany Transit and Linn-Benton Loop Vehicle.
- (d) Place feet upon any seat or seat cushion.
- (16) Disruptive Conduct Inside an Albany Transit and Linn-Benton Loop Vehicle: No person shall occupy, move about, or engage in activity in an Albany Transit and Linn-Benton Loop Vehicle in a manner that:
- (a) Interferes with the free movement of passengers; or
- (b) Interferes with or disrupts the function or safe operation of the Albany Transit and Linn-Benton Loop Vehicle, including movement that constitutes a distraction to the operator of an Albany Transit and Linn-Benton Loop Vehicle.
- (17) Use of Albany Transit and Linn-Benton Loop Transit System for Non-Transit Purposes: No person shall enter or remain upon, occupy, or use an Albany Transit and Linn-Benton Loop Station for purposes other than boarding, disembarking, or waiting for an Albany Transit and Linn-Benton Loop Vehicle. A person is in violation of this section only after having occupied an Albany Transit and Linn-Benton Loop Station for a period that exceeds that which is reasonably necessary to wait for, board, or disembark from an Albany Transit and Linn-Benton Loop Vehicle.
- (18) Destructive Conduct Involving an Albany Transit and Linn-Benton Loop Vehicle: No person shall interfere with the safe and efficient operation of an Albany Transit and Linn-Benton Loop Vehicle through conduct which includes to:
- (a) Extend any portion of his or her body through any door or window of an Albany Transit and Linn-Benton Loop Vehicle while it is in motion.
- (b) Attempt to board or de-board a moving Albany Transit and Linn-Benton Loop Vehicle.
- (c) Throw, propel, or discard any object or substance in any Albany Transit and Linn-Benton Loop Vehicle or through any open door or window of an Albany Transit and Linn-Benton Loop Vehicle.
- (d) Unreasonably prevent or delay the closure of an exterior door on an Albany Transit and Linn-Benton Loop Vehicle.
- (e) Strike or hit an Albany Transit and Linn-Benton Loop Vehicle, stop or cross in front of an Albany Transit and Linn-Benton Loop Vehicle for the purpose of stopping the Vehicle or gaining passage after the Vehicle has concluded boarding.
- (f) In any manner hang onto, or attach himself or herself to, any exterior part of an Albany Transit and Linn-Benton Loop Vehicle while the Vehicle is resting or in motion.
- (19) Refuse and Waste: No person shall: discard or deposit or leave any rubbish, trash, debris, offensive substance or other solid or liquid waste in or upon an Albany Transit and Linn-Benton Loop Vehicle, Albany Transit and Linn-Benton Loop Station or Albany Transit and Linn-Benton Loop Parking Facility, except in receptacles provided for that purpose. No person shall spit, defecate, or urinate in or upon an Albany Transit and Linn-Benton Loop Vehicle, Albany Transit and Linn-Benton Loop Station, stop or shelter or Albany Transit and Linn-Benton Loop Parking Facility, except in the

confines of a lavatory where lavatories are available for public use.

- (20) Destruction of Signs: No person shall mutilate, deface, or destroy any sign, notice or advertisement posted by the Albany Transit and Linn-Benton Loop or located on any Albany Transit and Linn-Benton Loop Vehicle, Albany Transit and Linn-Benton Loop Station, Albany Transit and Linn-Benton Loop Parking Facility or any other Albany Transit and Linn-Benton Loop property.
- (21) Posting of Unauthorized Signs or Notices: Except as otherwise allowed by Albany Transit and Linn-Benton Loop regulations, no person shall place, permit, or cause to be placed any notice or sign upon any Albany Transit and Linn-Benton Loop Vehicle, Albany Transit and Linn-Benton Loop Station, shelter, or Parking Facility or upon any vehicle without the owner's consent while the vehicle is parked therein.
- (22) Violation of Signage. no person shall fail to abide by specific directives provided in the form of a fixed permanent or temporary sign posted in or upon the Albany Transit and Linn-Benton Loop Transit System that has been authorized to address a regulatory or security concern. The Public Works Director or the Public Works Director's designee may establish and post such signage in a manner to provide sufficient notice concerning the conduct required or prohibited. Any violation of the specific directives in any sign authorized by the Public Works Director shall constitute a violation of this subsection.
- (23) Unlawful Gambling: No person shall engage in illegal gambling, or solicit others to engage in illegal gambling, aboard any Albany Transit and Linn-Benton Loop Vehicle or in an Albany Transit and Linn-Benton Loop Station.
- (24) Hygiene: A passenger may not be allowed on a vehicle if his or her body odor or physical hygiene will disturb the reasonable comfort of other passengers or Albany Transit or Linn-Benton Loop Staff. Odors may include but are not limited to scents related to unlaundered clothing, lack of bathing, animal related odors, and excessive perfumes. A passenger will be given notice and an opportunity to correct the odor or hygiene problem prior to suspension resulting in discontinued riding privileges for certain set periods of time, unless in the judgment of the Transit staff, that person places existing passengers in extreme discomfort or is considered a health risk to others.
- (25) Transfer: No person shall, tender a transfer as proof of fare payment if the transfer was not furnished to that person by a representative of the Albany Transit and Linn-Benton Loop.
- (26) Alcoholic Beverages: No person shall possess or consume from an open container of alcoholic beverage onboard an Albany Transit and Linn-Benton Loop Vehicle, Station, shelter, or parking facility, unless authorized by the Albany Transit and Linn-Benton Loop.
- (27) Damaging or Defacing Albany Transit and Linn-Benton Loop Property: No person shall:
- (a) Draw graffiti or any other writing on any Station, shelter, or parking facility, unless authorized by the Albany Transit and Linn-Benton Loop.
 - (b) In any manner damage, destroy, interfere with, or obstruct in any manner, the property, services or facilities of the Albany Transit and Linn-Benton Loop.
- (28) Criminal Activity: No person shall engage in activity prohibited by the criminal laws of the state of Oregon, county, or municipality, in which the criminal incident occurs, while on an Albany Transit and Linn-Benton Loop Vehicle or in or upon an Albany Transit and Linn-Benton Loop Station or Albany Transit and Linn-Benton Loop Parking Facility.
- (29) Flammable Substances and Ignition Devices: No person shall bring, possess, or carry aboard onto an Albany Transit and Linn-Benton Loop Vehicle or platform any flammable substance or device that can cause a spark or flame, except for matches and cigarette lighters. No spark or flame may be lit or initiated at any time by any device on an Albany Transit and Linn-Benton Loop Vehicle, including matches and lighters.

- (30) Weapons: No person, except a peace officer, shall bring or carry aboard a Albany Transit and Linn-Benton Loop Vehicle any firearm, knife (except a folding knife with a blade less than 3 ½ inches in length), or any other instrument, article, device, material or substance specifically designed for, or attempted to be used to, inflict or cause bodily harm to another, except as may be promulgated by the Public Works Director or otherwise provided by law. Where possession of such weapons cannot be prohibited by law, a person in possession of a weapon may not display or carry the weapon in a manner which is likely to result in fear or alarm by other persons or Albany Transit and Linn-Benton Loop employees.
- (31) Hazardous and Toxic Material or Substances: No person shall carry, possess or transport any hazardous material, toxic chemical, combustible liquid, biological contagion or agent, radioactive substance, gasoline, lead acid battery, or any other inherently dangerous substance onto a Albany Transit and Linn-Benton Loop Vehicle or other Albany Transit and Linn-Benton Loop property unless the person is a Albany Transit and Linn-Benton Loop employee or authorized personnel acting in the course of employment.
- (32) Explosive Materials or Device: No person may carry, possess, or transport any explosive material or device, assembled, or disassembled, onto an Albany Transit and Linn-Benton Loop Vehicle or other Albany Transit and Linn-Benton Loop property unless the person is an Albany Transit and Linn-Benton Loop Employee, peace officer, or emergency response professional, acting in the course of employment or duty.
- (33) Discharge or Detonation of a Weapon: No person may throw an object at or discharge a bow and arrow, air rifle, rifle gun, revolver or other firearm at a Albany Transit and Linn-Benton Loop Vehicle or any part of a Albany Transit and Linn-Benton Loop Station or Albany Transit and Linn-Benton Loop Parking Facility, or any person on a Albany Transit and Linn-Benton Loop Vehicle or at a Albany Transit and Linn-Benton Loop Station or Albany Transit and Linn-Benton Loop Parking Facility, except that a peace officer in the course of employment is exempt from this paragraph.
- (34) Harassment and Intimidation:
- (a) While on a Albany Transit and Linn-Benton Loop platform or Vehicle, no person shall engage in harassment or intimidation through a course of conduct, including violent, threatening or disruptive behavior or conduct intended and likely to provoke a violent response, which places another person in reasonable fear of imminent physical harm, including, but not limited to, following such person around or about the Vehicle or platform, or by preventing or delaying the movement or departure of such person through coercion or intimidation.
 - (b) While on an Albany Transit and Linn-Benton Loop Vehicle, no person shall continue a course of conduct that may reasonably be expected to result in fear, alarm, or serious offense to other passengers or Albany Transit and Linn-Benton Loop personnel, after having received a lawful directive to cease such conduct or depart the Vehicle, by any Albany Transit and Linn-Benton Loop employee or a peace officer.
- (35) Threats: No person may utter a threat to cause damage to an Albany Transit and Linn-Benton Loop Vehicle or other Albany Transit and Linn-Benton Loop property, or state a threat to cause disruption to Albany Transit and Linn-Benton Loop operations using a bomb, explosive, or any other destructive device or weapon, or release of any harmful substance, while on an Albany Transit and Linn-Benton Loop Vehicle or other Albany Transit and Linn-Benton Loop property; or state a threat of physical harm to a peace officer or Albany Transit and Linn-Benton Loop personnel acting in the course of employment.
- (36) Interference with Emergency Response: No person may impede the efforts of Albany Transit and Linn-Benton Loop personnel or peace officers during an emergency response, including the failure to obey a lawful order by Albany Transit and Linn-Benton Loop personnel or peace officers uttered during an emergency.

(37) Abandonment of Packages: No person shall knowingly abandon an unauthorized package on an Albany Transit and Linn-Benton Loop Station, Albany Transit and Linn-Benton Loop Parking Facility or Albany Transit and Linn-Benton Loop Vehicle, where the abandonment of such package is likely to cause suspicion or alarm about its contents or require the dispatch of emergency response personnel to remove and inspect the package.

(38) Violation of an Interdiction Command: No person shall violate a directive of an Interdiction Command.

Exclusion

- A. In addition to other measures provided for violation of, or the laws of the State of Oregon, the Albany Transit and Linn-Benton Loop may exclude an individual from all or any part of the Albany Transit and Linn-Benton Loop Transit System for a violation of any provision of, or a violation of any criminal law of the State of Oregon while on the Albany Transit and Linn-Benton Loop Transit System.
- B. A person excluded under these rules may not enter or remain upon any part of the Albany Transit and Linn-Benton Loop Transit System from which said person is excluded.
- C. A notice of exclusion may be issued by any peace officer, Albany Transit and Linn-Benton Loop Manager or Supervisor, or any other person authorized by the Public Works Director (hereinafter referred to under this section as “exclusion officer”) based upon probable cause that an individual has engaged in conduct in violation of these rules, in violation of any law of the State of Oregon, or in violation of the criminal law of a municipality in which the conduct occurred.
- D. The Public Works Director is further authorized to appoint a Hearings Officer(s), establish hearing procedures, and establish any other administrative requirements necessary to effectively implement the provisions of these rules. The Public Works Director is further authorized to review, investigate, invalidate, or rescind any exclusion, at any stage during, or after, the processing of an exclusion, when the Public Works Director determines, in the Public Works Director’s sole discretion, that justice so requires.
- E. An individual shall be provided notice concerning the rights to which the individual is entitled upon receipt of a Notice of Exclusion from an exclusion officer. Such notice shall include:
- (1) A statement of the rule or law violated by reference; and
 - (2) An explanation of the Albany Transit and Linn-Benton Loop’s internal review procedure, a description of the hearing process, and an explanation of the evidentiary burdens; and
 - (3) A statement of the duration of the exclusion.
- F. Every person who receives a Notice of Exclusion shall be entitled to an administrative review by an Albany Transit and Linn-Benton Loop Exclusion Administrator within seven (7) business days from the date in which the Notice of Exclusion was issued. The purpose of the administrative review shall be to determine whether a Notice of Exclusion conforms to the administrative rules. If an Exclusion Administrator determines, after conducting an administrative review, that the Notice of Exclusion does not conform to Albany Transit and Linn-Benton Loop administrative rules, the Exclusion Administrator shall notify the individual that the Notice of Exclusion is invalid and withdrawn. If the administrative review confirms that a Notice of Exclusion was issued in conformity with Albany Transit and Linn-Benton Loop administrative rules, it shall be deemed valid, and the exclusion shall take effect on the eleventh (11th) business day following the date in which the Notice of Exclusion was issued, unless the individual requests a hearing. If a hearing is conducted, the Hearings Officer shall determine the date in which the exclusion takes effect. A hearing shall be conducted no later than ten (10) business days following the date of the individual’s request for a hearing unless the Hearings Officer determines, in his or her sole discretion, that a later date is warranted or necessary.

- G. All exclusions shall be subject to a stay pending administrative review and opportunity for a hearing. A stay on an exclusion shall remain in effect through the tenth (10th) business day following the issuance of the Notice of Exclusion or, if a hearing has been requested, until the date on which the Hearing Officer's final order is effective following a hearing.
- H. An individual who receives a valid Notice of Exclusion shall be entitled to a hearing. The purpose of the hearing shall be to:
- (1) Review and determine whether the evidentiary basis for issuance of the Notice of Exclusion was sufficient; and
 - (2) Determine whether the length and scope of an exclusion is commensurate with the nature of the violation; and
 - (3) Render a finding on whether it is more probable than not that the individual engaged in conduct justifying an exclusion; and
 - (4) Consider any mitigating and aggravating factors that the Hearings Officer determines relevant to the scope and length of an exclusion in his or her sole discretion; and
 - (5) Issue a final exclusion order to sustain, modify, or set aside a Notice of Exclusion.
- I. Effect of a Failure to Schedule or Attend a Hearing. If a Notice of Exclusion is deemed valid by the Exclusion Administrator, and an excluded person fails to schedule a hearing or appear at a scheduled hearing, the exclusion shall automatically take effect on the eleventh (11th) business day following the issuance of the Notice of Exclusion, in accordance with the terms of the Notice of Exclusion.
- J. In conducting a hearing and reaching a decision, the Hearings Officer may rely upon any evidence that a reasonable person would rely upon in making an important decision or conducting personal business. Hearsay is admissible, except where its admission would offend due process. The Hearings Officer shall have the authority to compel testimony or evidence deemed necessary, in the Hearings Officer's sole discretion, to a fair decision.
- K. Notwithstanding any other provision of these rules, the Public Works Director, or his or her designee, upon a review of sufficient evidence, and the Hearings Officer, upon review of the Notice of Exclusion or the evidence presented at the hearing, must modify, or set aside an exclusion under the circumstances provided for below:
- (1) An individual with a disability shall not be issued a complete exclusion from the Albany Transit and Linn-Benton Loop Transit System unless the person engaged in violent, seriously disruptive, or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the transit system. Absent such a finding, if a Hearings Officer determines that a violation was more probable than not, the Hearings Officer shall order a qualified exclusion to permit an individual with a disability to use the Albany Transit and Linn-Benton Loop Transit System for trips of necessity, including travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items, or for accessing any critical services.
 - (2) A transit dependent person shall not be issued a complete exclusion for the Albany Transit and Linn-Benton Loop Transit System unless the person engaged in violent, seriously disruptive, or criminal conduct, or in conduct posing a serious threat to the safety of others or to the operation of the transit system. Absent such a finding, if a Hearings Officer determines that a violation was more probable than not, the Hearings Officer shall order a qualified exclusion to permit a transit dependent individual to use the Albany Transit and Linn-Benton Loop Transit System for trips of necessity, including travel to and from medical and legal appointments, school or training classes, places of employment, obtaining food, clothing and necessary household items, or for accessing any critical services. Any person asserting the right to a qualified exclusion based on transit dependence shall have the burden of establishing transit dependence by a preponderance of the evidence.
 - (3) A person issued a Notice of Exclusion for conduct determined to be expressive conduct protected by the First Amendment to the U.S. Constitution and Article I, Sections 3 and 8 of the Oregon Constitution, shall not be excluded based on such conduct. If the Hearings Officer finds that a violation was more probable than not, but also finds that the conduct involved expressive conduct or the expression of a religious opinion, the Notice of Exclusion shall be set aside, unless the Hearings Officer

also finds that the effect of the conduct endangered public safety, disrupted service, or interfered with transit operations. For the purposes of this paragraph, the parameters of the free expression and religious protections afforded under this Section 28.18 shall be coextensive with constitutional guarantees.

- L. Effect of Failure to Provide an Address. When a person receiving a Notice of Exclusion is not able, or refuses, to provide a mailing address at the time of issuance, the Notice of Exclusion shall set forth the procedure for picking up any letters, notices or orders produced by the Exclusion Administrator or Hearings Officer, in accordance with administrative rules promulgated by the Public Works Director.
- M. Within five (5) business days following the conclusion of a hearing, the Hearings Officer shall issue a final Order setting forth all findings and a decision on the exclusion, unless issuance of a final order within five (5) business days is not practicable. A final order shall be deemed issued on the date of mailing to all parties at the addresses provided by the parties, through regular U.S. Mail, and effective three (3) business days from the date of issuance.
- N. At any time during the pendency of a hearing, during an administrative review, or following the exhaustion of administrative review, an excluded person may petition in writing to the Public Works Director, or designee, for a temporary waiver of the exclusion or modification of the terms of an exclusion, based upon a showing of need or changed circumstances. The Public Works Director, or designee, has the sole discretion to grant or deny the petition.

Enforcement.

- A. Any peace officer, vehicle operator, has the authority to refuse entrance on a Albany Transit and Linn-Benton Loop Vehicle, or Albany Transit and Linn-Benton Loop Station, require departure from a Albany Transit and Linn-Benton Loop Vehicle or Albany Transit and Linn-Benton Loop Station, or to require a seating change, of any person who violates any provision of these rules, regardless of location and regardless of presentation of pass, transfer, ticket, or valid payment of fare.
- B. The Public Works Director may promulgate Administrative Rules governing the authorization of additional enforcement measures, if permitted by law, in response to heightened threat alerts issued by the Department of Homeland Security or other governmental agency, or in response to a declaration of emergency by the Public Works Director based upon a security threat.

Construction. Nothing herein is intended to compromise or waive the right to enforce concurrently, or in the alternative, other remedies available pursuant to the Oregon Criminal Codes.