

RESOLUTION NO. 13-017

A RESOLUTION of the Board of Commissioners of Pierce Transit
Adopting a Revised Transit Advertising Policy

WHEREAS, Pierce Transit contracts for advertising on its vehicles, facilities and literature on a limited basis in order to generate additional revenue to benefit the transit system as a whole; and

WHEREAS, by Resolution No. 11-005, approved on February 28, 2011, the Board of Commissioners of Pierce Transit adopted an Interim Transit Advertising Policy; and

WHEREAS, by Resolution No. 11-020, approved on August 8, 2011, the Board of Commissioners of Pierce Transit adopted a Transit Advertising Policy; and

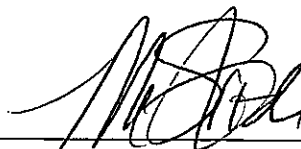
WHEREAS, the proposed revised Transit Advertising Policy adopts streamlined procedures and clarifies responsibilities in the advertisement review process, supporting the sales of advertisements on or in Pierce Transit's vehicles, facilities, and literature, which helps fund the transit system as a whole; and

WHEREAS, the Board of Commissioners of Pierce Transit finds it in the best interest of Pierce Transit to adopt the proposed revised Transit Advertising Policy;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

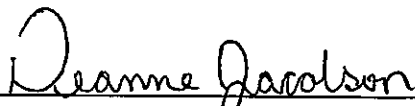
Section 1. The Transit Advertising Policy attached hereto as Exhibit A is adopted and effective immediately, and applies to all pending applications for advertising.

ADOPTED by the Board of Commissioners of Pierce Transit at its regular meeting thereof held on the 8th day of July, 2013.



Marilyn Strickland, Chairman
Board of Commissioners

ATTEST:



Deanne Jacobson, CMC
Clerk of the Board

TRANSIT ADVERTISING POLICY
Revised July 2013
Approved by Resolution No. 13-017 on July 8, 2013

I. PURPOSE

Pierce Transit operates Pierce County's public transportation system. Pierce Transit's operations are funded by a combination of federal, state and local funds, including grants and taxes, as well as fare box revenue. Advertising revenues are an important additional source of revenue that supports Pierce Transit's operations. In order to raise additional revenue, Pierce Transit will accept advertising on its Transit Vehicles, Transit Facilities, and Transit Publications only if such advertising complies with the guidelines set forth in this Advertising Policy.

By allowing limited types of advertising on or within Transit Vehicles, Transit Facilities, and Transit Publications, Pierce Transit does not intend to create a public forum for public discourse or expressive activity, or to provide a forum for all types of advertisements. Pierce Transit's purpose in accepting transit advertising is to generate additional revenue to augment Pierce Transit's operating budget.

II. APPLICATION OF ADVERTISING POLICY

This Advertising Policy applies to the posting of all new advertisements on Transit Vehicles, Transit Facilities, and Transit Publications on or after the effective date of this Transit Advertising policy. Any advertisements which would be prohibited under this Advertising Policy, but which were posted in 2011 pursuant to the terms of any previous Transit Advertising Policy and a duly executed advertising contract prior to the Effective Date of this Advertising Policy, will be allowed to remain posted for the duration of that contract.

III. DEFINITIONS

"Transit Facilities" means transit oriented facilities that are owned or operated by Pierce Transit including, but not limited to, bus stops and park-and-ride facilities.

"Transit Vehicles" means all passenger vehicles that are owned or operated by Pierce Transit for use by the general public.

"Transit Publications" means literature produced by Pierce Transit including, but not limited to, *The Bus Stops Here* route and schedule books.

"Government Entity" means any public entity specifically created by government action.

"Transit Advertising Contractor" means Titan Outdoor, LLC, or any other entity that Pierce Transit contracts with regarding the placements or sale of advertising on Transit Vehicles, Transit Facilities and Transit Publications.

IV. POLICIES

A. PERMITTED ADVERTISING CONTENT

The following classes of advertising are authorized on Transit Vehicles, Transit Facilities, and Transit Publications if the advertisement does not include any material that qualifies as Prohibited Advertising under Subsection B of this Advertising Policy:

1. Commercial and Promotional Advertising. Commercial and Promotional Advertising primarily promotes the sale, lease, rental, distribution or availability of goods, services, food, entertainment, events, programs, transactions, donations, products or property (real or personal) for commercial or noncommercial purposes or more generally promotes an entity that engages in such activities.
2. Governmental Advertising. A Government Entity may purchase advertising for messages that advance specific government programs. It is Pierce Transit's intent that governmental advertising will not be used for comment on issues of public debate.
3. Public Service Announcements. Pierce Transit recognizes that its advertising program and its overall public transportation mission are promoted by allowing Public Service Announcements. First, such announcements engender goodwill with the public because the transit system is seen as a caring and active participant in the community it serves. Second, board members and administrators of nonprofit and government organizations who purchase space for Public Service Announcements are introduced to the benefits of transit advertising, increasing the likelihood they will continue to purchase transit advertising in the future for their organizations or other organizations in which they are involved.

A Public Service Announcement must satisfy the following criteria:

- (a) The sponsor of the Public Service Announcement must be a government entity or a nonprofit corporation that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. At the time of submission of a proposed advertisement, the sponsor shall submit documentation of its 501(c)(3) status to the Transit Advertising Contractor.
- (b) The Public Service Announcement may not include a message that is primarily commercial or retail in nature or related to a festival, show, sporting event, concert, lecture or event for which an admission is charged.

- (c) The Public Service Announcement must be directed to the general public or a significant segment of the public and relate to:
 - (i) Prevention or treatment of illnesses;
 - (ii) Promotion of safety or personal well-being;
 - (iii) Provision of children or family services;
 - (iv) Solicitation by broad-based employee contribution campaigns which provide funds to multiple charitable organizations; or
 - (v) Provisions of services and programs that provide support to low income citizens and citizens with disabilities.

B. PROHIBITED ADVERTISING CONTENT

Advertising is prohibited on Transit Vehicles, Transit Facilities, and Transit Publications if it includes any of the following content, or includes an internet address that directly links to, any of the following content:

1. Political. Advertising promoting or opposing a political party, or promoting or opposing the election of any candidate or group of candidates for federal, state or local office. Advertising promoting or opposing initiatives, referendums or other ballot measures.
2. Public Issue. Advertising expressing or advocating an opinion, position or viewpoint on matters of public debate about economic, political, religious or social issues.
3. Prohibited Products, Services or Activities. Any advertising that (i) promotes the sale, rental, or use of, or participation in, the following products, services or activities; or (ii) that uses brand names, trademarks, slogans or other material that are identifiable with such products, services or activities:
 - (a) Tobacco/Nicotine. Tobacco or nicotine products, including but not limited to, cigarettes, cigars and smokeless tobacco;
 - (b) Alcohol. Beer, wine, distilled spirits or any alcoholic beverage licensed and regulated under Washington law, however, this prohibition shall not prohibit advertising that includes the name of a restaurant;
 - (c) Adult/Mature Rated Films, Television or Video Games. Adult films rated "X" or "NC-17", television rated "MA" or video games rated "A" or "M";

- (d) Adult Entertainment Facilities. Adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments.
- 4. Illegal Activity. Any advertising that promotes an activity or product that is illegal under federal, state or local law.
- 5. Sexual and/or Excretory Subject Matter. Any advertising that contains or involves any material that describes, depicts or represents sexual or excretory organs or activities in a way:
 - (i) Which the average adult person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest of minors in sex; and
 - (ii) which is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable material for minors to see; and
 - (iii) Which, when considered as a whole in the context in which it is used, lacks serious literary, artistic, political, medical, health or scientific value; or
 - (iv) Which depicts, or reasonably appears to depict, a person under the age of eighteen (18) exhibiting his or her sexual or excretory organs or engaging in sexual or excretory activities.

For purposes of this subsection, "sexual or excretory organs" shall mean and include the male or female pubic area, anus, buttocks, genitalia, or any portion of the areola or nipple of the female breast and "sexual or excretory activities" shall mean and include actual or simulated sex acts of every nature (including but not limited to touching of one's own or another's clothed or unclothed sexual or excretory organs), urination and defecation.

- 6. False or Misleading. Any material Pierce Transit knows, or the party submitting the advertisement knows or reasonably should have known is false, fraudulent, misleading, deceptive or would constitute a tort of defamation or invasion of privacy.
- 7. Copyright, Trademark or Otherwise Unlawful. Advertising that contains any material that is an infringement of copyright, trademark or service mark, or is otherwise unlawful or illegal.

8. Profanity or Violence. Advertising that contains any profane language, or portrays images or descriptions of graphic violence, including dead, mutilated or disfigured human beings or animals, the act of killing, mutilating or disfiguring human beings or animals, or intentional infliction of pain or violent action towards or upon a person or animal.
9. Firearms. Advertising that promotes or solicits the sale, rental, distribution or availability of firearms or firearms-related products or depicts the use of a firearm.
10. Harmful or Disruptive to Transit System. Any material that is so objectionable under contemporary community standards as to be reasonably foreseeable that it will result in harm to, disruption of, or interference with the transportation system.
11. Insulting, Degrading or Offensive. Any material directed at a person or group that is so insulting, degrading or offensive as to be reasonably foreseeable that it will incite or produce imminent lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order.
12. Disparaging. Any advertising that is intended to be (or reasonably could be interpreted as being) disparaging, disreputable, or disrespectful to organizations, including Pierce Transit, persons, groups, or businesses, including advertising that portrays individuals as inferior, evil or contemptible because of their race, color, creed, sex, pregnancy, age, religion, ancestry, national origin, marital status, disability, sexual orientation or any other characteristic protected under federal, state or local law.
13. Lights, Noise and Special Effects. Flashing lights, sound makers, mirrors or other special effects that interfere with the safe operation of the Transit Vehicles or the safety of Transit Vehicle riders, drivers of other vehicles or the public at large.
14. Unsafe Transit Behavior. Any advertisement that encourages or depicts unsafe behavior with respect to transit-related activities, such as non-use or normal safety precautions in awaiting, boarding, riding upon or debarking from transit vehicles.
15. Government Comments on Issues of Public Debate. Advertising from a governmental entity that takes a position on an issue of public debate.
16. Endorsement. Advertising that implies or declares an endorsement of Pierce Transit, or the jurisdictions within its service area, of any service, product, or point of view, without written authorization from Pierce Transit or the member jurisdiction.

V. Additional Requirements

Any advertising in which the identity of the sponsor is not readily and unambiguously identifiable must include the following phrase to identify the sponsor in clearly visible letters (no smaller than 72 point type for exteriors and 24 point type for interiors):

"Advertisement paid for by [name of sponsor]"

VI. PROCEDURES

Pierce Transit, shall from time to time, select a Transit Advertising Contractor who shall be responsible for the daily sales and administration of Pierce Transit's advertising program, in a manner that is consistent with this Transit Advertising Policy. Pierce Transit shall designate an employee (e.g., Marketing Assistant Manager) as its "Advertising Administrator" to be the primary contact for the Transit Advertising Contractor. Questions regarding the terms, provisions and requirements of this Transit Advertising Policy shall be addressed initially to the Advertising Administrator.

- A. Submission of Advertising. All proposed advertising must first be submitted by the sponsor to the Transit Advertising Contractor for initial compliance review. The Transit Advertising Contractor shall be responsible for performing a thorough evaluation of the submission to assess its compliance with this Transit Advertising Policy. If the advertisement's sponsor purports to be a 501(c)(3) organization submitting a Public Service Announcement, it shall provide to the Transit Advertising Contractor documentation demonstrating its 501(c)(3) status.

The Transit Advertising Contractor may at any time discuss with the entity proposing the advertisement one or more revisions to an advertisement, which, if undertaken, would bring the advertisement into conformity with this Transit Advertising Policy.

If the Transit Advertising Contractor is unable to make a compliance determination, the Transit Advertising Contractor shall promptly send the final version of the advertisement, along with the names of the sponsor, the size and number of the advertisements, the approximate dates and locations of the display, and, to the extent applicable, documentation demonstrating the sponsor's 501(c)(3) status, to the Advertising Administrator, or his/her designee, for further review.

- B. Authority of Pierce Transit. The ultimate authority to determine whether a particular advertisement complies with this Transit Advertising Policy rests with Pierce Transit.

In the event the Transit Advertising Contractor in contravention of this Transit Advertising Policy approves an advertisement that Pierce Transit ultimately determines is not in compliance with this policy, the Transit Advertising Contractor shall, upon request from Pierce Transit, remove the advertisement within 24 hours. In the event Pierce Transit directs the removal of any such advertisement, it shall provide the Transit Advertising Contractor with written notification in

compliance with VI.C(1) below; the Transit Advertising Contractor, in turn, shall forward that written notification to the sponsor, and provide the sponsor with the opportunity to revise the advertisement and/or an appeal of that decision in compliance with Sections VI.C(2) and/or (3) below.

- C. Determination of Compliance. The Advertising Administrator, or his/her designee, shall determine whether a particular advertisement submitted by the Transit Advertising Contractor complies with this Transit Advertising Policy. In reaching this determination, the Advertising Administrator, or his/her designee, may consider any materials submitted by the sponsor, and/or and materials publicly available, and may consult with the Transit Advertising Contractor.

If the Advertising Administrator, or his/her designee, determines that the advertisement does not fall within any of the categories set forth in Section IV.B above, the Advertising Administrator, or his/her designee, shall advise the Transit Advertising Contractor that the advertisement is in compliance with this Transit Advertising Policy. The Transit Advertising Contractor shall notify the sponsor of the same.

In the event the Advertising Administrator, or his/her designee, determines that an advertisement falls within one or more of the prohibited categories set forth in Section IV.B above, he/she may seek additional policy review by consulting with his/her direct supervisor or other senior executives up to and including Pierce Transit's Chief Executive Officer. If Pierce Transit determines the advertisement is not in compliance with this policy, then:

- (1) Notification of Non-Compliance. The Advertising Administrator, or his/her designee shall provide the Transit Advertising Contractor with a written explanation for the decision within ten (10) days after the decision of non-compliance has been made, and instruct the Transit Advertising Contractor to provide the sponsor with a copy of the Transit Advertising Policy and the written explanation for the decision.
- (2) Opportunity for Revision by Sponsor. Upon receipt of a decision of non-compliance, the sponsor may provide proposed revisions to the advertisement to the Transit Advertising Contractor. The Transit Advertising Contractor shall promptly provide the revisions to the Advertising Administrator, or his/her designee, in an effort to bring the advertisement into compliance with the Transit Advertising Policy. If the Advertising Administrator, or his/her designee, his/her direct supervisor or other senior executives up to or including Pierce Transit's Chief Executive Officer, determines the proposed revisions do not bring the advertisement into compliance with the Transit Advertising Policy, the Advertising Administrator shall provide a written explanation for the decision within ten (10) days after the proposed revision is not accepted to the Transit Advertising Contractor, who shall immediately forward the written explanation to the sponsor.

- (3) Appeal of Decision. Upon receipt of any decision under Section VI.C(1) and/or (2) a sponsor may request review of the Advertising Administrator's decision by the Pierce Transit Chief Administration Officer who supervises the Advertising Administrator, or his/her designee.

Upon appeal, the Pierce Transit Chief Administration Officer and/or the direct supervisor who supervises the Advertising Administrator, or his or her designee, shall provide a written explanation for his/her review decision within ten (10) days of a request for review to the Transit Advertising Contractor, who shall immediately forward the written explanation to the sponsor. This determination shall be deemed final.

VII. RESPONSIBILITIES

Pierce Transit is responsible for the implementation of this Transit Advertising Policy.