

RESOLUTION 16-03

A resolution adopting an amended bus advertising policy for the Bloomington Public Transportation Corporation.

WHEREAS, the Bloomington Public Transportation Corporation (BPTC) desires to amend its bus advertising policy to more clearly define the categories of advertising that will and will not be accepted; and

WHEREAS, BPTC desires to adopt a clear statement of its goals and intentions with respect to its bus advertising policy.

NOW, THEREFORE, be it hereby resolved by the BPTC Board of Directors, that BPTC amends its bus advertising policy to read as follows:

1. Purpose. It is the goal and the intention of the BPTC that its buses shall constitute a non-public forum and that all advertising on or in its buses shall be subject to this uniform, viewpoint-neutral policy that is hereby adopted for the following reasons:
 - A. BPTC's primary purpose in allowing advertising in and upon its buses is to attract, maintain and increase revenue received from advertisers.
 - B. BPTC is concerned that paying advertisers may be reluctant to place their advertisements with BPTC if required to share the advertising forum with advertisements containing material relating to political, religious, social and public issues about which public opinions can be widely divergent.
 - C. BPTC is concerned that paying advertisers might be reluctant to place their advertisements with BPTC if required to share the advertising forum with advertisements relating to subject matter that is widely viewed as offensive, or inappropriate, or potentially harmful to the public including but not limited to users of public transportation.

- D. BPTC wishes to maintain a position of neutrality on political, religious, social and other public issues, and therefore wishes to avoid any appearance that it is endorsing any religion, candidate, or viewpoint on any such issue.
- E. BPTC wishes to avoid any risk that acceptance and display of advertising relating to any political, religious, social or public issue might constitute a violation of the Establishment Clause of the United States Constitution.
- F. BPTC recognizes that its passengers are a captive audience to any advertisements in or on its buses. Many of BPTC's passengers have no transportation alternatives other than BPTC's service. Many of BPTC's passengers are elementary, junior high, or high school students. BPTC desires that its passengers not be forced to view advertisements containing material relating to political, religious, social and public issues about which public opinions can be widely divergent and which some passengers are, therefore, likely to find offensive. BPTC further desires that its passengers not be forced to view advertisements relating to subject matter that is widely viewed as offensive, or inappropriate, or potentially harmful to the public, particularly to children and young people. BPTC desires, on the one hand, to insure that its passengers who have no alternative to BPTC for their transportation needs will not be forced to be a captive audience to advertising of the kind described in this paragraph; and on the other hand, that its passengers who can find alternatives to BPTC services will not choose to use alternatives because of advertising of the kind described in this paragraph, which would adversely affect BPTC's ridership and revenue.
- G. BPTC is committed to providing a safe and orderly environment for its passengers and employees, and to protecting its property, and therefore wishes to prevent any risk of violence generated by advertising material on or in its buses.
- H. BPTC wishes to adopt an advertising policy that is clear, uniform, and content-neutral so as to avoid, to the maximum extent possible, the need for case-by-case interpretation and application of the policy. Such

a policy minimizes the risk of unconstitutional application of the policy, while also minimizing the need for its administration to invest costly time and resources in evaluating the appropriateness of any particular advertisement.

2. Policy. BPTC shall accept, display and maintain only advertisements that propose a commercial transaction. Any advertisement that falls into one or more of the following categories is prohibited and shall not be accepted, displayed or maintained:
 - A. Non-commercial, religious, social and public issues. The advertisement does not propose a commercial transaction, and/or The advertisement contains any direct or indirect reference to religion, or to any religion, or to any deity or deities, which includes the existence, nonexistence or other characteristics of any deity or deities, or to any religious creed, denomination, belief, tenet or issue relating to (which includes opposing or questioning) any religion. This prohibition shall include the depiction of text, symbols or images commonly associated with religion or with any religion, any deity or deities, or any creed, denomination, deity, belief, tenet, cause or issue relating to (which includes opposing or questioning) any religion.
 - B. Political or electoral. The advertisement contains political campaign speech referring to a specific ballot question, initiative, petition, referendum, candidate, or political party or viewpoint. This prohibition includes any advertisement referring to or depicting a candidate for public office in any context. Provided, however, this prohibition shall not apply to reference to or depiction of a holder of public office who is not a candidate for public office. However, in such case, BPTC shall reserve the right to require removal of any advertisement at such time as any person referred to or depicted in the advertisement becomes a candidate for public office.
 - C. Demeaning or Disparaging. The advertisement contains material that can reasonably be viewed as demeaning or disparaging an individual, group of individuals, or entity.

- D. Alcohol, Tobacco, or Firearms. The advertisement depicts, suggests or refers to alcohol, tobacco, tobacco-related products, e-cigarettes or e-cigarette-related products, products designed with the purpose of being weapons, or firearms, which includes promoting or offering in commerce the sale or use of alcohol, tobacco, tobacco-related products, e-cigarettes or e-cigarette-related products, products designed with the purpose of being weapons, or firearms, or firearms-related products.
- E. Violence. The advertisement contains an image or description of dead, mutilated or disfigured human or animal bodies, or the act of killing, mutilating or disfiguring humans or animals, or intentional infliction of pain upon a person or animal.
- F. Unlawful goods or services. The advertisement offers, promotes or encourages, or appears to offer, promote or encourage, the use or possession of unlawful or illegal goods or services.
- G. Unlawful Conduct. The advertisement offers, promotes or encourages, or appears to offer, promote, or encourage, unlawful or illegal behavior or activities.
- H. Profanity. The advertisement contains profane language and/or the appearance or suggestion of profane language.
- I. False, misleading or deceptive advertisement. The advertisement contains any material that is false, misleading or deceptive.
- J. Libelous speech, copyright infringement, etc. The advertisement or any material contained in it is libelous, or an infringement of copyright, or it otherwise unlawful, illegal, or likely to subject BPTC to litigation.
- K. Endorsement. The advertisement or any materials contained in it declares or implies endorsement by BPTC of the advertisement.
- L. Obscenity, nudity, or sexual activity. The advertisement depicts, describes, or represents nudity or sexual intercourse, or depicts, describes, or represents sexual activities, human sexuality or anatomy in a way that the average adult, applying contemporary community standards, would find appeals to prurient interest and is obscene; or, the advertisement promotes the sale of pornography, adult telephone or internet services, adult videotapes, movies or DVD's, nude or semi-

nude establishments, adult escort services, or any other adult entertainment, establishment or forum. This prohibition includes sexually oriented businesses as described in Bloomington, Indiana Municipal Code Section 20.11.020 as it may hereafter be amended.

- M. Disregard for Transit Safety. The advertisement encourages or depicts unsafe behavior with respect to transit-related activities, such as non-use of normal safety precautions in awaiting, boarding, riding upon, or debarking from transit vehicles.
- N. Constitutional Application. BPTC acknowledges that no policy can anticipate every issue that might arise, and BPTC is committed to insuring that application of this policy is viewpoint-neutral and constitutional. To that end, BPTC reserves the right to allow exceptions to the policy if BPTC determines that application of the policy as written would likely be unconstitutional in any particular situation.

3. Administration and Enforcement of Policy.

- A. Review by Contractor. BPTC shall incorporate this Policy and these procedures into its advertising management contracts. BPTC's Contractor shall review each advertisement submitted for display on or in BPTC's vehicles to determine whether or not the advertisement complies with the standards set forth in this Policy. If the Contractor determines that an advertisement does not comply, or may not comply, with the standards set forth in this Policy, then the Contractor shall notify BPTC's General Manager of the specific standard or standards of this Policy with which the Contractor believes the advertisement may not comply.
- B. Review by General Manager. The Contractor shall send the advertisement and supporting information (the name of the advertiser, the size and number of the proposed advertisements, the dates and locations of proposed display, and notation of standards of concern) to the General Manager for Review. The General Manager shall review the advertisement and supporting information to determine whether or not the advertisement complies with this Policy. If the General Manager

determines that the advertisement does not comply with this Policy, he or she shall, in writing, specify the standard or standards of this Policy with which the advertisement does not comply, and shall so notify the Contractor.

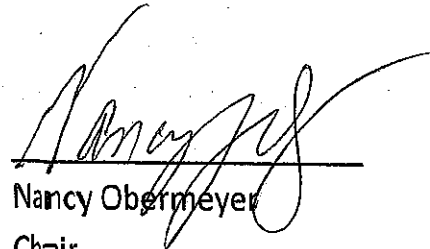
- C. Notification to Advertiser. The Contractor will send prompt, written notification to the advertiser of the rejection of the advertisement and will include in that notification a copy of this Policy and written specification of which standard or standards the advertisement fails to comply with.
- D. Appeal to Board of Directors. Rejection of an advertisement may be appealed to the BPTC Board of Directors by written notification to the General Manager. The General Manager will place the appeal on the next available agenda for a regular meeting of the Board. The Board will allow the advertiser and the General Manager to speak and present any evidence or arguments they wish to offer, and the Board shall make its decision at the conclusion of the meeting or at the conclusion of any subsequent meeting to which the matter may be continued.

ATTEST:

APPROVE:



Gloria Hasler
Secretary
Bloomington Public
Transportation Corporation



Nancy Obermeyer
Chair
Bloomington Public
Transportation Corporation

Approved the 22 day of March, 2016.