

POLICIES AND STANDARDS FOR ADVERTISING ON METRO TRANSIT FACILITIES

The Metropolitan Council (“Council”) is a political subdivision of the State of Minnesota and operates a regional transit system through its Metro Transit division. The Council owns and operates buses, light rail vehicles, parking facilities, bus shelters, light rail platforms, garages and other properties (collectively referred to as “Metro Transit Facilities”) in conjunction with its regional transit system. It is in the public interest to make advertising space available on certain designated Metro Transit Facilities to generate revenue and help fund the operation of the regional transit system.

I. PURPOSE

1.01 Nonpublic Forum; Commercial/Proprietary Functions. The Council will make space on its Metro Transit Facilities available for limited types of advertising (“Permitted Advertising”). By allowing limited types of advertising on or within its buses, light rail vehicles and other designated Metro Transit Facilities the Council does not intend to create a public forum for public discourse or expressive activity, or to provide a forum for all types of advertisements. The display of Permitted Advertising on designated Metro Transit Facilities is intended only to supplement fare revenue, tax proceeds and other income that fund the regional transit system.

1.02 Certain Excluded Advertising. The Council will not accept for display on its Metro Transit Facilities the types of advertising defined in Section 2.01 of these policies and standards (“Excluded Advertising”). By not accepting Excluded Advertising the Council can: (a) maintain a professional advertising environment that maximizes advertising revenues and minimizes interference or disruption of the commercial aspects of its regional transit system; (b) maintain an image of neutrality on political matters and other noncommercial issues that are the subject of public debate and concern; (c) protect passengers, employees and Metro Transit Facilities from harm or damage that can result from some individual’s reactions to political or controversial materials; and (d) help build and retain transit ridership.

1.03 Limits on Permitted Advertising. Placing reasonable limits on Permitted Advertising displayed on its Metro Transit Facilities will enable the Council to: (a) avoid subjecting its passengers and other members of the public to material that may cause them embarrassment or discomfort and discourage them from using regional transit services; (b) maintain an image of professionalism and decorum; (c) avoid displaying material that is not suitable for viewing by minors who ride on Metro Transit buses or light rail vehicles or whose neighborhoods are served by Metro Transit bus routes and light rail transit lines; and (d) maximize revenues by attracting and maintaining the patronage of passengers.

II. ADVERTISING POLICIES

2.01 Excluded Advertising. For the purposes of these policies and standards, the advertising described in this Section 2.01 is “Excluded Advertising.” The Council will not accept the following Excluded Advertising for display, posting or placement on or within its buses, light rail vehicles or other Metro Transit Facilities:

- (a) ***Political or “Issues” Advertising.*** The advertising space on Metro Transit Facilities is a non-public forum. The Council therefore will not accept political or “issues” advertising of any kind. For the purposes of these policies, political or issues advertising includes: (1) advertisements, posters or other displays that promote or oppose candidates for appointive or elective offices; (2) political campaign material; (3) advertisements, posters or other displays that promote or oppose ballot questions, initiatives, petitions or referenda; and (4) advertisements, posters or other displays that promote, oppose or otherwise directly relate to issues of public debate on economic, political or social issues.
- (b) ***Alcoholic Beverages.*** The Council will not accept advertisements and images soliciting or promoting the sale or use of alcoholic beverages other than beer and wine. Beer and wine advertising must contain a responsible drinking message. Copy or graphics that do not portray responsible use of beer or wine by individuals or groups of legal age will not be accepted.
- (c) ***Tobacco Products.*** The Council will not accept advertisements and images soliciting or promoting the sale or use of tobacco products including, but not limited to, cigarettes, cigars and smokeless tobacco.
- (d) ***Advertisements Affecting Image or Operation.*** The Council will not accept advertisements and images that threaten or adversely affect: the public image of the Council or its Metro Transit division; the Council’s ability to operate its Metro Transit Facilities; or the Council’s ability to attract and maintain the patronage of passengers.

2.02 Permitted Advertising. Subject to the viewpoint-neutral standards contained in Section 3.01 of these policies and standards, the Council will accept “Permitted Advertising” for display or placement on designated Metro Transit Facilities. For the purposes of these policies, “Permitted Advertising” is advertising that: (a) does not qualify as Excluded Advertising under Section 2.01; and (b) generally relates to the economic interests of the advertiser and its audience. Permitted Advertising typically promotes the sale, rental, distribution or availability of goods, services, food, entertainment, products or property (real or personal), but also may solicit business or promote (commercial or noncommercial) transactions, events or programs. Advertising defined in Section 3.02 also is Permitted Advertising.

2.03 Prohibitions on Literature or Product Distribution and Leafleting. The Council’s purpose in operating a regional transit system is to meet the public’s need for efficient, effective and safe public transportation. Metro Transit Facilities are not public fora for public discourse or expressive activity. Literature or product distributions, leafleting and similar activities can disrupt or delay passengers who are boarding and exiting buses and light rail vehicles, distract passengers, distract bus and light rail vehicle operators, cause maintenance issues, and otherwise create safety issues for passengers, operators and surrounding traffic. Accordingly, political campaign activities, distribution of political or issues campaign literature, leafleting, and other informational or campaign

activities are prohibited within Metro Transit buses, within light rail vehicles and on light rail passenger platforms. Notwithstanding the policies that allow the display of Permitted Advertising on designated Metro Transit Facilities, nothing in these policies or standards authorizes or permits advertisers to distribute literature, leaflets, coupons, products, samples or other items within Metro Transit buses or light rail vehicles, or on light rail passenger platforms. On a limited basis and in conjunction with a “partnering” opportunity approved by Metro Transit, the Council may allow an advertiser to distribute items on or within Metro Transit Facilities other than light rail passenger platforms. Any distribution of literature, leaflets, coupons, products, samples or other items must be pre-approved by Metro Transit and must comply strictly with terms and conditions established by Metro Transit.

III. ADVERTISING STANDARDS AND RESTRICTIONS

3.01 Advertising Standards and Restrictions. The Council will make available on designated Metro Transit Facilities space for advertisements subject to the viewpoint-neutral restrictions in this Section 3.01 that limit certain forms of paid and unpaid advertising. Advertisements cannot be displayed or maintained on Metro Transit Facilities if the advertisement or information contained in the advertisement falls within one or more of the following categories:

- (a) ***False, Misleading, Deceptive or Disrespectful Advertising.*** Advertising or any material or information in the advertising that is false, misleading or deceptive, or that is intended to be (or reasonably could be interpreted as being) disparaging, disreputable or disrespectful to persons, groups, businesses or organizations, 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, including those related to pregnancy or child birth, affectional or sexual orientation, or any other characteristic protected under federal, state or local law.
- (b) ***Unauthorized Endorsement.*** Advertising that implies or declares the Council or its Metro Transit division endorses a product, service, event or program. The prohibition against endorsement does not apply to advertising for a service, event or program for which the Council or its Metro Transit division is an official sponsor, co-sponsor or participant, provided Metro Transit’s General Manager or other designated representative gives prior written approval regarding the endorsement.
- (c) ***Obscene or Offensive Material.*** Advertising that contains obscene or offensive materials. “Obscene materials” means displays or information that, taken as a whole, appeals to the prurient interest in sex and depicts or describes in a patently offensive manner sexual conduct and which, taken as a whole, does not have serious literary, artistic, political, or scientific value, or otherwise qualifies as “obscene” as that term is defined in Minnesota Statutes section 617.241. “Offensive materials” means displays or information that would be offensive to a reasonably prudent person of average sensitivity in the community, including advertising that contains derisive, distorted, immoral, profane or disreputable language or impressions. Obscene or offensive material also includes advertising that contains “pornographic work” as that term is defined in Minnesota Statutes sections 617.246 and 617.247 or promotes pornography, including “men and women’s sophisticated magazines,” “X-rated” or adult-oriented films, “X-rated” or adult-oriented cable channels, or businesses trafficking

in pornography, including the use of brand names, trademarks, slogans or other materials that are identifiable with these items, activities or services.

- (d) ***Unlawful Goods or Services.*** Advertising or any material or information in the advertising that depicts, promotes or reasonably appears to encourage the use or possession of unlawful or illegal goods or services.
- (e) ***Unlawful Conduct.*** Advertising or any material or information in the advertising that: depicts, promotes or reasonably appears to encourage unlawful or illegal behavior or conduct, including unlawful behavior of a violent or antisocial nature; is libelous or an infringement of copyright; is otherwise unlawful or illegal; or is likely to subject the Council to liability.
- (f) ***Adult Entertainment.*** Advertising that promotes or displays images associated with adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments, adult telephone services, adult internet sites and escort services.
- (g) ***Graffiti.*** Advertising that uses images or symbols that depict or represent graffiti.
- (h) ***Illegal Firearms and Weapons.*** Advertising that contains images or depictions of illegal firearms or other weapons, or the unlawful use of firearms or other weapons.
- (i) ***Internet Addresses and Telephone Numbers.*** Advertising that directs viewers to internet addresses or telephone numbers that contain materials, images or information that would violate these advertising standards if the materials, images or information were contained in advertising displayed or posted on Metro Transit Facilities.
- (j) ***Distractions and Interference.*** Advertising that incorporates or displays any rotating, revolving, or flashing devices or other moving parts or any word, phrase, symbol or character, any of which are likely to interfere with, mislead or distract traffic or conflict with any traffic control device or motor vehicle regulation.

3.02 Other Permitted Advertising and Public Service Announcements. The Council may make advertising space available for advertising proposed by governmental entities, academic institutions or tax-exempt nonprofit organizations (examples include: ads focusing on personal health or wellness issues, or ads informing the public about programs, services or events). Non-profit entities must document their tax-exempt status. On a limited basis, the Council may make unpaid advertising space available for public service announcements. Costs associated with the design, production, installation and removal of public service announcements are the responsibility of the group or organization requesting the public service announcement. The advertising and public service announcements permitted under this section cannot contain displays or messages that qualify as Excluded Advertising under Section 2.01 and must comply with these advertising policies and standards. Unless the source of the advertising or public service announcement is obvious from the content or copy, the advertisement or public service announcement must specifically identify the sponsor of the advertisement or the message.

3.03 Advertising Pricing and Space Availability. The price for placing advertising on Metro Transit Facilities is governed by the contract(s) between the Council and its advertising contractor(s). The Council limits the amount of space on its Metro Transit Facilities available for adver-

tising and does not represent that it can accommodate all requests for advertising space. Advertising space will be made available only on Metro Transit Facilities designated by Metro Transit. No advertising, signs and other types of postings or messages may be displayed, posted or placed on any other Metro Transit Facilities.

3.04 Reservation of Rights. The Council reserves the right to amend these policies and standards at any time. Revisions or amendments will be made in writing and provided to the Council's advertising contractor(s). Subject to any contractual obligations, the Council reserves the right to discontinue advertising on Metro Transit Facilities and discontinue accepting advertising for display or posting on Metro Transit Facilities. The Council reserves the right to limit the availability of advertising space on its Metro Transit Facilities and remove advertising that does not comply with these advertising policies and standards and, subject to any contractual obligations, reserves the right to display advertisements and notices on Metro Transit Facilities that pertain to the Council's Metro Transit operations and its own promotions.

IV. APPEAL OF ADVERTISING DECISIONS

4.01 Initial Reviews. The Council's advertising contractor(s) will make initial decisions about accepting or rejecting proposed advertising. The decisions will be based on these policies and standards. The Council's Director of Marketing, or other designated Council staff, will work with the Council's advertising contractor(s) and advertisers to resolve issues about advertisements that do not comply with these policies and procedures. Resolution may include modification of the art, copy or both.

4.02 Appeals to Advertising Review Committee. An advertiser may appeal a decision to reject or remove an advertisement by filing a written request with the Advertising Review Committee within ten (10) business days after the rejection or removal decision. The advertiser's request must state why the advertiser disagrees with the decision in light of the Council's advertising policies and standards. The Advertising Review Committee consists of the following Metro Transit personnel: the Assistant General Manager, the Director of Marketing and the Director of Customer Services, or alternative personnel designated by the General Manager. The Advertising Review Committee may consult with legal counsel and the Council's Office of Diversity. The Advertising Review Committee will review the basis for the rejected or removed advertisement and will consider the advertiser's reasons for filing the request. The Advertising Review Committee will make a decision on the request and will notify the advertiser of its decision in writing within fifteen (15) business days after receiving the advertiser's request.

4.03 Further Review by General Manager. An advertiser who disagrees with a decision of the Advertising Review Committee may request Metro Transit's General Manager to review the committee's decision. The advertiser's written request for further review must be received within five (5) business days after receipt of the Advertising Review Committee's decision. The General Manager may accept, reject or modify the Advertising Review Committee's decision and will notify the advertiser of the General Manager's decision within five (5) business days after the General Manager receives the advertiser's request for further review. The General Manager's decision is final.

Approved by the Metropolitan Council May __, 2007