

**TRANSIT ADVERTISING POLICY***Revised January 2024**Approved by Resolution No. 2024-002 on February 12, 2024***I. PURPOSE**

Pierce Transit provides safe, reliable, innovative and useful public transportation services that are locally based and regionally connected. Pierce Transit's mission is to be your transportation choice for today and tomorrow. Consistent with this purpose and mission, Pierce Transit seeks to maintain and provide Transit Vehicles, Transit Facilities, and Transit Publications that are safe, comfortable, convenient, and retain and attract new users of its public transportation services. 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 provide an 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, and in keeping with its proprietary function as a provider of public transportation, Pierce Transit does not provide or create a public forum for public discourse or expressive activity, or provide a forum for all types of advertisements. Rather, Pierce Transit maintains its advertising space as a nonpublic forum subject to the restrictions in this Policy. Pierce Transit's purpose in accepting transit advertising is to generate additional revenue to augment Pierce Transit's operating budget. Additionally, a secondary purpose of this Advertising Policy is to provide a mechanism for Pierce Transit to communicate with the public regarding Pierce Transit's and its partners' services and programs and for other Government Entities to communicate with the public regarding governmental services or programs, community events, or issues of importance to the community. In allowing for certain advertising by Pierce Transit and other Government Entities, Pierce Transit intends to provide a public benefit by providing an efficient and effective mechanism for Pierce Transit and other Government Entities to communicate with the transit-using public. Pursuant to this Advertising Policy, Pierce Transit retains strict control over the types of advertisements accepted in its Transit Facilities, Transit Vehicles, or Transit Publications.

Pierce Transit's acceptance of an advertisement does not constitute express or implied endorsement of the content or message of the advertisement, including any person, organization, products, services, information or viewpoints contained therein, or of the advertiser itself.

This Policy may be suspended, modified or revoked as necessary to comply with legal mandates or recommendations, to accommodate Pierce Transit's primary transportation function, or upon the directive of the Pierce Transit Board of Commissioners. Any provision in this Policy shall be deemed severable.

**II. APPLICATION OF ADVERTISING POLICY**

Except as otherwise provided herein, 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 that would be prohibited under this Advertising Policy, but were posted 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, buildings, bus stops, bus shelters, stations, 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 or by registered SHUTTLE passengers.

“Transit Publications” means literature or information produced by Pierce Transit including, but not limited to, Routes and Schedules books, brochures, piercetransit.org, and any Pierce Transit-administered social media.

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

“Transit Advertising Contractor” means the vendor(s) that Pierce Transit contracts with regarding the placement 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 in Transit Vehicles, Transit Facilities, and Transit Publications if the advertisement does not include any material that qualifies as Prohibited Advertising under Section IV.B of this Advertising Policy:

1. **Commercial Advertising.** Advertising that primarily promotes the sale, lease, rental, distribution or availability of goods, services, food, entertainment, events, programs, transactions, products or property (real or personal) for commercial purposes or more generally promotes an entity that engages in such activities. It is Pierce Transit’s intent that Commercial Advertising will not be used for comment on a Public Issue, as further defined in Section IV.B(2), and will not include any material that qualifies as Prohibited Advertising under Section IV.B of this Advertising Policy.
2. **Pierce Transit Advertising.** Advertising that promotes Pierce Transit’s own services and programs, as well as services and programs Pierce Transit undertakes in partnership with other entities. For purposes of this provision, a “partnership” is an ongoing relationship that Pierce Transit has maintained or will maintain with another entity to support and/or promote certain services or programs that Pierce Transit has determined in its sole discretion are consistent with Pierce Transit’s mission. Subject to the terms and limitations of any agreement Pierce Transit may have with a Transit Advertising Contractor, Pierce Transit may offer free or reduced cost advertising on Transit Vehicles, Transit Facilities, and in Transit Publications of services and programs that Pierce Transit determines, in its sole discretion, further or promote the provision of Pierce Transit’s transportation services or programs to the public. Pierce Transit also may, in its sole discretion, enter into one or more sponsorship agreements for its services and programs. A sponsorship agreement is distinct from advertising in that a sponsorship typically does not solicit a specific transaction, but instead associates a brand with Pierce Transit through a long-term non-transactional arrangement. Any such sponsorship agreements entered into by Pierce Transit shall not be subject to this Advertising Policy except to the extent this Advertising Policy is incorporated into the sponsorship agreement.

3. Governmental Advertising. Advertising by a Government Entity that promotes government services or programs, community events, awareness of issues of importance to the community served by the Government Entity such as public health issues, or more generally promotes the Government Entity or community served by the Government Entity. It is Pierce Transit's intent that governmental advertising will not be used for comment on a Public Issue, as further defined in Section IV.B(2), and will not include any material that qualifies as Prohibited Advertising under Section IV.B of this Advertising Policy.

## B. PROHIBITED ADVERTISING CONTENT

Advertising is prohibited on Transit Vehicles, Transit Facilities, and Transit Publications if it does not qualify as Commercial Advertising, Pierce Transit Advertising, or Governmental Advertising as defined in Section IV.A above or if it includes any of the following content, or includes an internet address or telephone number that directly relates to any of the following content:

1. Political. Advertising promoting or opposing a political party; promoting or opposing the election of any candidate or group of candidates for federal, state or local office; or promoting or opposing existing or proposed laws, initiatives, referenda or other ballot measures.
2. Public Issue. Advertising expressing or advocating an opinion, position or viewpoint on matters of public debate about economic, political, public safety, religious or social issues.
3. Religious. Advertising that addresses, promotes or opposes any identifiable or specific religion or religious viewpoint, message or practice, including but not limited to the lack of religious beliefs.
4. 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, electronic nicotine delivery systems, cigars and smokeless tobacco;
  - (b) Alcohol and Cannabis Products. Beer, wine, distilled spirits or any alcoholic beverage licensed and regulated under Washington law, and cannabis or any cannabis product licensed and regulated under Washington law or federal law, including but not limited to any substance deemed a Schedule I controlled substance under the Controlled Substances Act, Title 21 U.S.C., provided that 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", "NC-17", or equivalent; television rated "TV-MA" or equivalent; or video games rated "AO (Adults Only)", "M", or equivalent;
  - (d) Adult Entertainment Facilities, Services, and Products. Stores selling adult books and other products, adult video stores, adult telephone services, adult internet sites, escort services, nude dance clubs and other adult entertainment establishments.

5. **Illegal Activity.** Any advertising that promotes an activity or product that is illegal under federal, state or local law.
6. **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 person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
  - (ii) Which is patently offensive to contemporary community standards; and
  - (iii) Which, when considered as a whole, lacks serious literary, artistic, political 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.

7. **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 expose Pierce Transit to potential litigation.
8. **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.
9. **Profanity or Violence.** Advertising that contains any profane language or employs the use of miscellaneous characters or symbols as a substitute for 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.
10. **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.
11. **Harmful or Disruptive to Transit System.** Any material that is so objectionable under contemporary community standards as to be reasonably foreseeable that it may result in harm to, disruption of, or interference with the operation or business reputation of the transportation system or that will incite or produce imminent lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order.

12. 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.
13. Unsafe or Unlawful Transit Conduct. Any advertisement that encourages or depicts unsafe or unlawful conduct with respect to transit-related activities, such as non-use of normal safety precautions in awaiting, boarding, riding upon or debarking from transit vehicles or any violation of RCW 9.91.025.
14. Endorsement. Advertising that implies or declares an endorsement by 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.
15. Advertising Regarding Pierce Transit or its Regional Transit Authority Partner. Any advertising, other than the Pierce Transit Advertising permitted under Section IV.A(2), supra, which discusses, refers to, depicts, or portrays Pierce Transit or its programs or services, its partner the Central Puget Sound Regional Transit Authority, or either agency's officers or employees.
16. Advertising That Conflicts with Any Pierce Transit Sponsorship or Naming Rights Agreement. Pierce Transit reserves the right to prohibit advertising on any Transit Facilities, Transit Vehicles, or Transit Publications by entities identified as Direct Competitors in a Pierce Transit Sponsorship or Naming Rights Agreement or where such advertising conflicts with or otherwise is prohibited by a Pierce Transit Sponsorship or Naming Rights Agreement.

#### V. Additional Requirements

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

"Advertisement paid for by [name of advertiser]."

#### 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 Supervisor) 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 advertiser 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.

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 advertiser, the size and number of the advertisements, and the approximate dates and locations of the display 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 twenty-four (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 advertiser, and provide the advertiser with the opportunity to revise the advertisement and/or to appeal the 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 advertiser, and/or any materials publicly available, and may consult with the Transit Advertising Contractor.

If the Advertising Administrator, or his/her designee, determines that the advertisement qualifies as one of the categories of permitted advertisements in Section IV.A above and does not fall within any of the categories of prohibited advertisements 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 advertiser of the same.

In the event the Advertising Administrator, or his/her designee, determines that an advertisement does not qualify as one of the categories of permitted advertisements in Section IV.A above, or that the advertisement qualifies as a permitted advertisement under Section IV.A but falls within one or more of the prohibited categories set forth in Section IV.B above, then the Advertising Administrator shall proceed as follows:

- (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 advertiser with a copy of the Transit Advertising Policy and the written explanation for the decision.
- (2) Opportunity for Revision by Advertiser. Upon receipt of a decision of non-compliance, the advertiser 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, 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 advertiser.

- (3) **Appeal of Decision.** Upon receipt of any decision under Section VI.C(1) and/or (2), an advertiser may request review of the Advertising Administrator's decision by the Pierce Transit Executive Director of Planning and Community Development and/or the direct supervisor who supervises the Advertising Administrator, or his/her designee.

Upon appeal, the Pierce Transit Executive Director of Planning and Community Development 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 advertiser. This determination shall be deemed final.

## VII. Responsibilities

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