



County of Lackawanna Transit System

**POLICY GOVERNING ALL ADVERTISING IN OR UPON COUNTY OF
LACKAWANNA TRANSIT SYSTEM FACILITIES AND VEHICLES**

I. PURPOSE:

A. This Transit Advertising Policy ("Advertising Policy") applies to the posting of all new advertisements on transit facilities, transit property, and transit vehicles on or after the effective date of the Resolution that adopted and enacted this Advertising Policy.

1. County of Lackawanna Transit System. The County of Lackawanna Transit System ("COLTS") is a municipal authority established by Lackawanna County which operates a public transit agency located in Lackawanna County, Pennsylvania.
2. Advertising as Revenue Source. COLTS' transit operations are funded by a combination of federal, state, and local funds, as well fare box and advertising revenue. Advertising revenues are an important additional source of revenue that supports transit operations. COLTS' fundamental purpose in accepting transit advertising is to generate revenue to augment COLTS' operating budget.
3. Purpose of Transit System. The primary purpose of COLTS' transit system is to provide safe and efficient public transportation within its service area. Consistent with this purpose, COLTS places great importance on maintaining secure, safe, comfortable and convenient transit facilities and transit vehicles in order to, among other things consistent with the provision of effective and reliable public transportation, retain existing riders and attract new users of public transit services. To generate additional revenue while also accomplishing the primary objectives of transit operations, COLTS will accept advertising on its transit facilities and vehicles only if such advertising complies with this Advertising Policy.
4. Non-Public Forum Status. It is the express intention of this Advertising Policy to convert COLTS' property allocated for advertising to a non-public forum, or maintain it as a non-public forum. Going forward, COLTS' acceptance of transit advertising will not provide or create a general public

forum for expressive activities. In keeping with its proprietary function as a provider of public transportation, COLTS does not intend its acceptance of transit advertising to permit its transit facilities, transit property, or transit vehicles to be used as open public forums for public discourse and debate. Rather COLTS' fundamental purpose and intent is to accept advertising as an additional means of generating revenue to support its transit operations. In furtherance of that discreet and limited objective, COLTS will retain strict control over the nature of the advertisements accepted for posting on or in its transit facilities, transit property, and transit vehicles and will maintain its advertising space as a non-public forum.

5. Policy Advances Revenue Objective. It is COLTS' experience and belief that certain advertisements interfere with the program's primary purpose of generating revenue to benefit the transit system. This Advertising Policy advances the program's revenue-generating objective by prohibiting advertisements that could detract from that goal by creating substantial controversy, interfering with and diverting resources from transit operations, and/or posing significant risks of harm, inconvenience, or annoyance to transit passengers, operators, and vehicles. Such advertisements create an environment that is not conducive to achieving revenue for the benefit of the transit system or to preserving and enhancing the security, safety, comfort, and convenience of its operations. The viewpoint neutral restrictions in this Advertising Policy foster the maintenance of a professional advertising environment that maximizes advertising revenue.

This Advertising Policy is intended to provide clear guidance as to the types of advertisements that will allow COLTS to generate revenue and enhance transit operations by:

- Increasing and maximizing revenue;
- Preventing the appearance of favoritism by COLTS;
- Preventing the risk of imposing views on a captive audience;
- Maintaining a position of neutrality on controversial issues;
- Preserving the marketing potential of the advertising space by avoiding content that the community could view as offensive, inappropriate, or harmful to the public generally, or to minors in particular;
- Maximizing ridership;
- Avoiding claims of discrimination and maintaining a non-discriminatory environment for riders;
- Preventing any harm or abuse that may result from running controversial, demeaning, disparaging, or offensive advertisements; and

- Reducing the diversion of resources from transit operations that are caused by controversial or offensive advertisements.
6. Application of Advertising Policy. This Advertising Policy applies to the posting of all new advertisements on transit facilities, transit property, and transit vehicles on or after the effective date of the Resolution adopting and enacting this Advertising Policy. Any advertisements which would be prohibited under this Advertising Policy but which were or will be posted pursuant to the terms of a fully executed advertising contract prior to the effective date of this Advertising Policy, will be allowed to be posted or to remain posted for the duration of that contract. COLTS' transit facilities and transit vehicles are a non-public forum and, as such, COLTS will only accept advertising that falls within the categories of acceptable advertising specified in this viewpoint neutral policy and that satisfies all other access requirements and restrictions provided herein. This Advertising Policy does not apply to COLTS owned property in the possession of another party pursuant to a lease, license, or concession agreement.
 7. Disclaimer. COLTS' 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 advertisement sponsor itself. This endorsement disclaimer extends to and includes content that may be found via internet addresses, quick response (QR) codes, and telephone numbers that may appear in posted ads and that direct viewers to external sources of information. **All third-party advertisements appearing on COLTS property must contain the following disclaimer: "The views and/or opinions expressed by the Advertiser in this advertisement are not necessarily those of COLTS." This disclaimer shall appear in a consistent form and manner on all third-party advertisements.**
 8. Damage, Mischief, Defacement. COLTS is not responsible for the protection of advertising material from damage, mischief, or defacement.
 9. Reservation of Rights. COLTS reserves the right to suspend, modify, or revoke the application of any of the standards of this Advertising Policy as it deems necessary to comply with legal mandates, to accommodate its primary safe and efficient public transportation function, or to fulfill its goals and objectives identified above. All of the provisions of this Advertising Policy shall be deemed severable.
 10. Prior Policies. All prior policies of COLTS concerning advertising on COLTS' property, either written or oral, shall be deemed null and void as of the effective date of this Advertising Policy.

II. ADVERTISING POLICY:

A. Permitted Advertising Content – The following classes of advertising are authorized on or in transit facilities, transit property, and transit vehicles if the advertising does not include any material that qualifies as Prohibited Advertising under this Advertising Policy:

1. Commercial and Promotional Advertising. Commercial and Promotional Advertising that promotes or solicits the sale, 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. Governmental entities, meaning public entities specifically created by government action, may purchase advertising space for messages that advance specific governmental purposes.
3. Public Service Announcements. COLTS recognizes that its advertising program and its overall public transportation mission are promoted by allowing for public service announcements. Such announcements engender goodwill with the public because the transit system is seen as a caring and active participant in the community.

A Public Service Announcement must satisfy the following criteria:

- a. The sponsor of a 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.
- b. The Public Service Announcement must be directed to the general public or a significant segment of the public and relate to:
 - Prevention or treatment of illnesses;
 - Promotion of safety or personal well-being;
 - Education or training;
 - Provision of children and family services;
 - Solicitation by broad-based contribution campaigns which provide funds to multiple charitable organizations; or
 - Provision of services and programs that provide support to low income citizens, senior citizens, and people with disabilities.

B. Prohibited Advertising Content – Advertising is prohibited on or in transit facilities, transit property, and transit vehicles if it includes any of the following content:

1. Political Campaign Speech. Advertisements promoting or opposing a political party, the election of any candidate or group of candidates for federal, state, judicial, or local government offices, or initiatives, referendums, or other ballot measures.
2. Prohibited Products, Services, or Activities. Any advertising that promotes or depicts the sale, rental, use of, or participation in, or presents images of, the following products, services, or activities, or, uses brand names, trademarks, slogans, or other material that are identifiable with such products, services, or activities:
 - a.) Tobacco: Tobacco products, or tobacco-related products, including, but not limited to cigarettes, e-cigarettes, cigars, and smokeless (e.g., chewing) tobacco;
 - b.) Vaping: Vaping products, or vaping-related products;
 - c.) Alcohol: Beer, wine, distilled spirits, or any alcoholic beverage licensed or regulated under Pennsylvania law. However, this prohibition shall not prohibit commercial advertising that includes the name of a restaurant that is open to minors;
 - d.) Firearms: Firearms, ammunition, or other firearm-related products;
 - e.) 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";
 - f.) Adult Entertainment Facilities: Adult book stores, adult video stores, nude dance clubs, or other similar adult entertainment establishments;
 - g.) Other Adult Services: Adult telephone services, adult internet sites, escort services, or other similar adult services;
 - h.) Sexual and/or Excretory Subject Matter: Any advertising that contains or involves any material that describes, depicts, images, or represents sexual or excretory organs (including the male or female pubic area, anus, buttocks, genitalia, or any portion of the areola or nipple of the female breast), functions, or activities in a way or manner that is obscene or pornographic;
 - i.) False or Misleading: Any material that is or that the sponsor reasonably should know or have known is false, fraudulent,

misleading, deceptive, or would constitute the tort of defamation or invasion of privacy;

- j.) 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;
 - k.) Illegal Activity: Advertising that promotes any activity or product that is illegal under federal, state, or local law;
 - l.) Profanity and Violence: Advertising that contains any obscene or profane language or images, 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, or that depicts weapons or injury-causing devices that appear to be aimed or pointed at the viewer or observer in a menacing manner;
 - m.) Lights, Noise, and Special Effects: Flashing lights, sound makers, mirrors, or other special effects that interfere with the safe operation of COLTS' transit vehicles or the safety of riders, the public, or transit vehicle operators;
 - n.) Unsafe Transit Behavior: Any advertisement that 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;
 - o.) Advocacy to Unlawful Behavior: Advertising in advocacy of imminent lawlessness, unlawful violent action, vandalism, or breach or public safety, peace, and order;
 - p.) Liability: Advertising that could subject COLTS to civil or criminal liability; and
 - q.) COLTS Graphics and References: Advertising that contains COLTS' graphics, logos, or representations, without the express written consent of COLTS.
- C. Harmful or Disruptive to Transit System: Advertising material that is so objectionable as to be reasonably foreseeable that it will result in harm to, disruption of, or interference with the transportation system. For purposes of determining whether an advertisement contains such material, COLTS will determine whether a reasonably prudent person, knowledgeable of COLTS' ridership and using prevailing community standards, would

believe that the material is so objectionable that it is reasonably foreseeable that it will result in harm to, disruption of, or interference with the transportation system;

- D. COLTS' Advertising. Nothing in this Advertising Policy shall be interpreted or construed to prevent COLTS from displaying messages or information on its property promoting or supporting public transportation or COLTS.
- E. Control of Advertising. COLTS reserves the sole right to determine the size, location, placement, duration, price, and all other terms for any COLTS' advertising space made available on its property.
- F. Additional Requirements –
 - 1. Sponsor Attribution and Contact Information. 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):

Paid for by _____.
 - 2. "Teaser ads" that do not identify the sponsor will, however, be allowed so long as a similar number of follow up advertisements are posted within eight weeks of the initial teaser ads that do identify the sponsor of those initial ads.

III. PROCEDURES:

A. Compliance Review –

- 1. All proposed transit advertising must be submitted to COLTS for initial compliance review. The Communication Director] will perform a preliminary evaluation of the submission to assess its compliance with this policy. The [Communication Director] may at any time discuss with the person or entity proposing the advertisement one or more revisions to an advertisement, which, if taken, would bring it into conformity with this Advertising Policy.
- 2. In the event the [Communication Director] determines that a proposed advertisement does not comply with this Advertising Policy or is unable to make a compliance determination, the Solicitor will review the proposed advertisement for compliance with the guidelines set forth in this policy and will direct the [Communication Director] as to whether the proposed advertisement complies with this policy.

(Amended November 18, 2020)

3. The [Executive Director] will conduct a final review of the proposed advertising. The decision of the [Executive Director], to approve or reject any proposed advertising shall be final.

4. The [Executive Director] is responsible for the implementation of this Advertising Policy.

The COLTS Board of Directors hereby adopts this amended policy on this 18th^t day of November, 2020, to be effective November 18, 2020.



Larry Wynne, Chairman