

TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF
OREGON (TriMet)

ADVERTISING POLICIES AND PROCEDURES

- I. Authority, Purpose, Intent, and Reservation of Rights
- A. TriMet's Advertising Policies and Procedures ("Policies") are adopted pursuant to the General Manager's authority under ORS 267.140.
 - B. The purpose of the Policies is to establish objective and consistently applied policies and procedures governing the display of advertising on TriMet buses, light rail vehicles, facilities, and any other revenue vehicles or facilities that TriMet owns, leases, controls, or operates ("Property").
 - C. TriMet does not intend its Property to become a public forum or designated public forum. Instead, exercising proprietary rather than regulatory authority, TriMet intends to maintain a limited public forum to advance interests important to the operation of TriMet's transportation system through the sale of advertising. Those interests include the following:
 - 1. maximizing TriMet's revenue;
 - 2. promoting the use of public transportation;
 - 3. maintaining the safety of passengers, TriMet personnel, and the public;
 - 4. protecting minors who travel on TriMet's transportation system; and
 - 5. avoiding the misidentification of TriMet with the viewpoints of any advertiser.

D. TriMet reserves the right to amend the Policies, to have TriMet's own advertisements and notices take priority over non-TriMet advertising, and to ban on all non-TriMet advertising.

II. Advertising Requirements and Restrictions

A. All advertising must be of professional quality; may not contain any rotating, revolving, flashing, or noise-making device, or any other lighted or moving parts; and may not interfere with traffic or conflict with any traffic control device.

B. All advertisements shall clearly, conspicuously, and unambiguously identify the person or entity that has sponsored, paid for, or caused the advertisement to be placed on TriMet Property. Website addresses or phone numbers, without more, are insufficient attribution.

C. Advertisements, or any material contained in them, cannot imply or declare an endorsement by TriMet of any service, product, or point of view without TriMet's express written permission. TriMet may require an advertisement to contain either a disclaimer or the phrase "Paid for by _____", each in clearly visible letters as determined by TriMet but no smaller than 72-point font for exterior and 24-point font for interior advertising.

D. TriMet will not exclude advertising based upon content unless the advertisement in whole or in part:

1. is demonstrably false, misleading, deceptive, libelous, defamatory, or infringes upon protected intellectual property or privacy rights;
2. explicitly depicts fetuses or human or animal bodies, or parts thereof, in a state(s) of mutilation, dismemberment, and/or decomposition;
3. depicts explicit violence against a person or animal;

4. depicts explicit sexual conduct or excretory activity, whether actual or simulated;
 5. depicts sexual or excretory organs (for the purpose of the Policies, those organs include but are not limited to the areola or nipple of the female breast);
 6. promotes the sale or use of any Schedule I controlled substance;
 7. is foreseeable to result in harm to, disruption of, or interference with the safe operation of TriMet's transportation system; and/or
 8. directs viewers to a telephone number, website, or other electronic source that contains material that violates the Policies.
- E. If any provision or part of Section II(D) is held invalid either facially or as applied, it is the intent of the Policies that such a decision shall not affect the validity of any remaining provision or part and, to that end, the elements of Section II(D) are severable.

III. Administration and Procedures

A. To administer the Policies, TriMet will:

1. select an "Advertising Contractor" responsible for the daily administration of TriMet's advertising program in accordance with the Policies;
2. designate a "Contract Administrator" to be the primary contact for the Advertising Contractor; and
3. establish an Advertising Review Committee consisting of not less than three TriMet employees, including the Contract Administrator, to review any proposed advertisement the Contract Administrator determines does not comply, or arguably does not comply, with the Policies.

- B. The Advertising Contractor shall review each advertisement submitted for display on TriMet's Property to determine whether the advertisement complies with the Policies. If the Advertising Contractor determines that an advertisement does not comply with the Policies, or there is a question regarding compliance, then the Advertising Contractor shall forward the advertisement to the Contract Administrator for review.

- C. Upon the Contract Administrator's receipt of the advertisement, the Contract Administrator shall review the advertisement to determine whether the advertisement complies with the Policies. In making that determination, the Contract Administrator may consider any materials submitted by the advertiser and may consult with the advertiser, the Advertising Contractor, and/or others. If the Contract Administrator determines that the advertisement complies with the Policies, then the Contract Administrator shall direct the Advertising Contractor to accept the advertisement.

- D. If the Contract Administrator determines that the advertisement does not comply with the Policies, then the Contract Administrator shall, in writing, identify the respect(s) in which the advertisement is noncompliant and refer the advertisement to the Advertising Review Committee for review.

- E. The Advertising Review Committee shall review the advertisement, the Contract Administrator's written notification, and any supporting information to determine whether the advertisement complies with the Policies. In making that determination, the Advertising Review Committee may consider materials submitted by the advertiser and may consult with the Contract Administrator, the Advertising Contractor, and/or others.

- F. If the Advertising Review Committee determines that the advertisement complies with the Policies, then the Contract Administrator shall direct the Advertising Contractor to accept the advertisement.

- G. If, at any time after acceptance of an advertisement, the Advertising Review Committee determines that an advertisement violates the Policies, then it may direct that the advertisement be removed as provided in the advertising contract.
- H. If the Advertising Review Committee determines that the advertisement does not comply with the Policies, then the Advertising Review Committee shall, in writing, identify the respect(s) in which the advertisement is noncompliant and provide its written determination to the Advertising Contractor.
- I. The Advertising Contractor, in consultation with the Contract Administrator, then may discuss with the advertiser any or more revisions to the advertisement that, if undertaken, would bring the advertisement into conformity with the Policies. The advertiser has the option of submitting a revised advertisement for review by the Advertising Review Committee.
- J. If the Advertising Review Committee and the advertiser are unable to agree on a revision to the advertisement, or the advertiser declines to submit a revised advertisement, then the advertiser may request that the Advertising Review Committee provide a formal written notice of decision.
- K. Within 30 days from the date of the formal written notice of decision and upon written request, the advertiser may appeal the Advertising Review Committee's decision to the General Manager. Within 10 days from receipt of the appeal, the General Manager shall determine whether the proposed advertisement complies with the Policies and issue an order on the appeal. Copies of the order shall be provided to the Advertising Review Committee, the Contract Administrator, the Advertising Contractor, and the advertiser. The order of the General Manager is final.

L. Review of the General Manager's order shall be by writ of review pursuant to ORS 34.010 *et sec.*

DATED: October 29, 2018



Doug Kelsey, General Manager