

ATTACHMENT 1

CITY OF DURHAM TRANSIT ADVERTISING POLICY

I. PURPOSE

To establish uniform, reasonable, and viewpoint-neutral standards for the display of advertising in and on the facilities, vehicles, and other property (together “Property”) of the City of Durham’s GoDurham Transit.

II. SCOPE

This GoDurham Advertising Policy (hereinafter “Policy”) applies to all advertisements proposed to be displayed on the Property on or after the Effective Date set forth below.

III. OBJECTIVE

GoDurham’s mission is to provide safe, reliable, and efficient public transportation within its service area. GoDurham’s transportation operations are funded by a combination of federal, state, and local funds, including grants and taxes, as well as farebox revenue. Advertising revenues are an important supplemental source of funding that supports GoDurham’s transportation operations. GoDurham’s purpose in allowing paid advertising to be displayed in and on the Property is to maximize such supplemental revenue to support transportation operations.

By accepting paid advertising for display in a non-public forum, the City of Durham through GoDurham, is acting as the owner of the Property and operator of the public transportation system and seeking to maximize advertising revenue to support its transportation operations. GoDurham does not intend that the advertising permitted to be displayed in and on the Property be created, designated, or used as a public forum for political, religious or advocacy oriented activities or as individual opinions. In furtherance of these objectives, GoDurham will only accept advertisements for display in and on the Property to paid commercial advertising, certain public service announcements that will help build goodwill for GoDurham among its riders and the public, and governmental messages. GoDurham retains control over the advertising that it will allow to be displayed in and on the Property by subjecting all proposed advertisements to the Advertising Standards below. GoDurham expressly intends that the advertising permitted to be displayed in and on the Property be a non-public forum.

In establishing and enforcing these Advertising Standards, GoDurham seeks to fulfill the following goals and objectives:

- Maximize advertising revenue
- Maximize ridership and fare revenue
- Maintain a secure and orderly operating environment
- Maintain a safe and welcoming environment for all City of Durham employees and customers, including minors, who use GoDurham’s buses and crossings
- Minimize the resources and attention that may be expended to resolve disputes relating to the permissibility of certain religious or politically-oriented advertisements, thus unnecessarily diverting the organization from performing its mission

Avoid the appearance that the City of Durham endorses a particular political party, movement or agenda

- Use viewpoint neutral criteria for approving advertising content that will achieve GoDurham's program goals and objectives.

IV. ADVERTISING STANDARDS

A. Permitted Advertising

GoDurham may agree to accept the display advertisements that fall under one or more of the following categories:

1. **Paid Commercial Advertising.** Advertisements for the sale, rent, lease, license, distribution, or availability of, or some other commercial transaction concerning, goods, service, or more generally promote an entity that engages in such activities.
2. **Governmental advertising.** Notices or messages from GoDurham or the City of Durham that promote GoDurham or any of its functions, operations or programs, and also paid notices or messages of the United States government, the State of North Carolina and its agencies, the City of Durham and its departments, or any governmental entity.
3. **Public service announcements.** Public service announcements, which are sponsored by either a government entity or a nonprofit corporation that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which are directed to the general public and relate directly to:
 - Prevention or treatment of illnesses;
 - Promotion of safety, health or personal well-being;
 - Education or training;
 - Art, culture, or recreation;
 - Providing children and family services;
 - Providing services and programs that support low and moderate income citizens, senior citizens, veterans, or people with disabilities; or
 - Broad-based contribution campaigns by non-profit and charitable organizations, to the extent that those solicitations conform or promote safety, health and general well-being of the public.

B. Prohibited Advertising

Notwithstanding the foregoing, GoDurham will not accept any advertisement for display described under Section IV.A. above on its Property if it falls within one or more of the following categories:

- Promotes or opposes a political party, candidate or an elected official whether at the local, judicial, state or federal level of government; promotes or opposes any ballot referendum; or promotes or opposes the election of any candidate or group of candidates for federal, state, judicial, or local government offices.
- Is political in nature, including but not limited to advertisements that either:
 - Are directed or addressed to the action, inaction, prospective action or policies of a governmental entity, except as permitted in Sections IV.A.2–IV.A.3 of this Policy; or
 - Prominently or predominately advocate or express a political message, including but not limited to an opinion, position, or viewpoint regarding disputed economic,

political, moral, religious or social issues or related matters, or support for or opposition to disputed issues or causes.

- Is religious in nature, including promoting or opposing religious organizations, beliefs or practices.
- Is false, misleading, or deceptive.
- Promotes unlawful or illegal goods, services, or activities, or involves other unlawful conduct.
- Falsely implies or declares an endorsement by GoDurham, or the City of Durham, of any service, product, or point of view.
- Encourages or depicts unsafe behavior with respect to GoDurham's transportation operations, such as failure to comply with normal safety precautions in awaiting, boarding, riding upon or debarking from GoDurham's vehicles, or is otherwise directly adverse to the commercial, administrative or operational interests of the GoDurham as an enterprise.
- Promotes usage or sale of goods that contain alcohol, tobacco, electronic cigarettes, or any alcohol or tobacco-related product.
- Contains an image of a person who appears to be a minor in sexually suggestive dress, pose or context.
- Contains material the display of which GoDurham reasonably foresees would imminently incite or provoke violence, a public disturbance or other immediate breach of the peace, and so harm, disrupt, or interfere with safe, efficient, and orderly transit operations.
- Contains terms or material that demeans or disparages an individual or group of individuals. For purposes of determining whether an advertisement contains such material, GoDurham will determine whether a reasonably prudent person, knowledgeable of GoDurham's ridership and using prevailing community standards, would believe that the advertisement contains terms or material that is abusive to, or debases the dignity of, an individual or group of individuals.
- Contains sexually explicit material that appeals to the prurient interest in sex or is so violent, frightening, or otherwise disturbing as to reasonably be deemed harmful to minors.
- Promotes an escort service or sexually oriented business.

C. Additional Provisions Relating to Advertisements

To avoid identification of GoDurham with messages or images contained within advertisements displayed in and on the Property and to avoid the appearance of GoDurham's (including the City of Durham's) endorsement of goods, products, services, events by advertisers, advertisements shall readily and unambiguously identify the person, corporation, or entity paying for the advertisement. An advertiser may, at the GoDurham's discretion, be required to include in the advertisement a statement explicitly identifying the person, corporation, or entity paying for the advertisement. An advertiser may also, at GoDurham's discretion, be required to incorporate additional language to avoid the appearance of GoDurham's endorsement.

V. REVIEW OF ADVERTISING PROPOSED FOR DISPLAY ON THE PROPERTY

1. Before accepting an advertisement for display in or on the Property, the advertising contractor shall review such proposed advertisement to determine whether the advertisement complies with the Advertising Standards.

2. If the advertising contractor determines that a proposed advertisement does not, or may not, comply with the Advertising Standards it shall promptly notify the Transit Administrator in writing of its determination and the reason for its determination.
3. If the Transit Administrator, in consultation with the Director of Transportation determine, following receipt and consideration of such recommendation, that a proposed advertisement does not comply with the Advertising Standards, the advertiser shall be notified by the advertising contractor, providing the reasons for failure to comply with the Advertising Standards. The advertising contractor, in consultation with the Transit Administrator may discuss with the advertiser revisions to the advertisement to try to bring the advertisement into compliance with the Advertising Standards, and the advertiser may submit a revised advertisement to the advertising contractor for review.
4. If the advertiser and the advertising contractor do not reach agreement with regard to a revision of the advertisement, or the Transit Administrator, in consultation with the Director of Transportation determine that no appropriate revision would bring the advertisement into compliance with the Advertising Standards, or the advertiser chooses not to submit a revised advertisement, the Transit Administrator shall advise the advertiser and the advertising contractor of the final determination in writing.

VI. SEVERABILITY

If any section, subsection, sentence, clause, phrase or other portion of this Policy is, for any reason, declared invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such invalidity shall not affect the validity of the remaining portions of this Policy, which remaining portions shall continue in full force and effect.

VII. EFFECTIVE DATE

This Advertising Policy is effective as of September 4, 2019.