

ORDINANCE NO. 91-169

AN ORDINANCE REPEALING
ORDINANCES NO. 89-118 AND
91-89 AUTHORIZING ADOPTION
OF ADVERTISING GUIDELINES
AND CREATION OF ADVERTISING
REVIEW COMMITTEE, AND ADOPTING
AMENDED AND RESTATED ADVER-
TISING GUIDELINES AND PRO-
CEDURES FOR REVIEW OF
ADVERTISING DETERMINATIONS

WHEREAS, The Chicago Transit Authority's primary purpose is to provide safe and efficient public transportation services for persons using its buses, rapid transit cars, and other vehicles and facilities; and

WHEREAS, The Chicago Transit Board has determined to create certain exceptions to the non-public-forum status of CTA property and to permit certain forms of public service, commercial, and other advertising in or upon CTA buses, rapid transit cars, and vehicles and facilities; and

WHEREAS, CTA passengers, many of whom have limited or no alternatives but to use CTA vehicles and facilities for transportation to and from school, work, recreation, and other locations, are a captive audience to advertising therein or thereon, and

WHEREAS, Significant numbers of persons using CTA vehicles and facilities are minors who are included among the captive audience who may be affected adversely by certain advertising; and

WHEREAS, The Chicago Transit Board has determined that discharging the CTA's primary purpose of safe and efficient public transportation, while permitting certain advertising in or upon CTA vehicles and facilities, is best achieved by reasonable advertising guidelines that do not interfere with the CTA's obligations to maintain passenger safety, minimize disruption to public transportation services, ensure peace and order on the public transportation system, protect passengers from fraudulent activities, and protect the health, safety, and welfare of minor and adult passengers; now, therefore:

BE IT ORDAINED BY THE CHICAGO TRANSIT BOARD
OF CHICAGO TRANSIT AUTHORITY:

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SECTION 1. Ordinance Nos. 89-118 and 91-89 are hereby repealed in their entirety and, in lieu thereof, the Chicago Transit Board hereby adopts the following amended and restated advertising guidelines and procedures for review of advertising determinations as the CTA's policy regarding advertising permitted in or upon CTA vehicles and facilities.

SECTION 2. The Chicago Transit Board hereby adopts the Amended and Restated Guidelines Governing All Advertising, including public service, commercial and other advertising, contained in Exhibit 1 attached hereto and made a part hereof, and the Amended and Restated Guidelines Governing Public Service Advertising contained in Exhibit 2 attached hereto and made a part hereof (collectively referred to as the "Advertising Guidelines"). The Advertising Guidelines shall apply to all requests made to the CTA by sponsors seeking to post an advertisement in or upon CTA vehicles and facilities.

SECTION 3. The sponsor of a proposed advertisement shall submit to the CTA or through the department of the CTA or any agent of the CTA to which advertisements may be submitted, as from time to time designated by the CTA (hereinafter referred to as the "Department"), a written request to post the proposed advertisement, together with a full-sized copy of the proposed advertisement as it would appear if posted.

SECTION 4. (a) unless within fifteen (15) business days of the CTA's actual receipt of such submission the Executive Director sends the sponsor written notice that the proposed advertisement fails to comply with the Advertising Guidelines, the proposed advertisement shall be accepted for posting, subject to the sponsor's identification of the proposed location(s) and date(s) for posting thereof, submission of a camera-ready copy of the proposed advertisement, payment of any required deposits and other payments, and compliance with such requirements and specifications as from time to time may be promulgated by the CTA acting through its Department (collectively referred to as the "Applicable Requirements"); and (b) the written notice referred to in Section 4(a) shall consist of (i) the reasons for the Executive Director's determination that the advertisement fails to comply with the Advertising Guidelines and (ii) a copy of this Ordinance.

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SECTION 5. Within thirty (30) calendar days of the sending of written notice that the proposed advertisement fails to comply with the Advertising Guidelines, the sponsor of the proposed advertisement may seek review of that determination by filing a written notice of appeal with the Transit Services Committee of the Chicago Transit Board. The sponsor's notice of appeal shall be accompanied by a written statement of such matters of fact or law in support of such review that the sponsor desires be considered. The Transit Services Committee may, at its option, permit the sponsor and representatives of the Department to appear and make comments or answer questions, or both.

SECTION 6. Within thirty (30) calendar days after the notice of appeal is filed, the Transit Services Committee shall review the Executive Director's determination that the proposed advertisement fails to comply with the Advertising Guidelines and shall decide upon a recommendation to be submitted to the Transit Board whether the proposed advertisement complies with the Advertising Guidelines.

SECTION 7. At the next scheduled regular meeting of the Chicago Transit Board, the Transit Board shall consider the Transit Services Committee's recommendation and shall determine whether the proposed advertisement complies with the Advertising Guidelines. The Transit Board may, at its option, permit the sponsor and representatives of the Department to appear and make comments or answer questions, or both.

(a) If the Transit Board determines that the proposed advertisement complies with the Advertising Guidelines, within five (5) business days of that determination the Transit Board shall send the sponsor written notice that the proposed advertisement shall be accepted for posting, subject to the sponsor's compliance with the Applicable Requirements.

(b) If the Transit Board determines that the proposed advertisement fails to comply with the Advertising Guidelines, within five (5) business days of that determination the Transit Board shall send the sponsor written notice of (i) the reasons for that determination and (ii) the sponsor's option to withdraw its advertisement from consideration.

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SECTION 8. In all stages of the CTA's internal review of a proposed advertisement, the CTA shall have the burden of proving by a preponderance of the evidence that the proposed advertisement does not comply with the Advertising Guidelines.

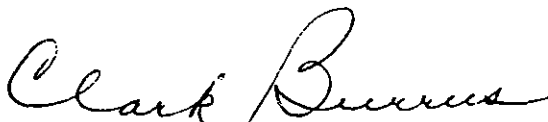
SECTION 9. Unless within fifteen (15) business days of the sending of written notice referred to in Section 7(b) the sponsor files with the Transit Board a written notice that it has elected to withdraw the proposed advertisement from further consideration, the CTA shall institute judicial proceedings, naming the sponsor as a defendant, to determine whether the proposed advertisement may be prohibited under the Advertising Guidelines or any other applicable law.

SECTION 10. For purposes of this ordinance, the term Transit Services Committee means and includes the same as constituted on the date of passage of this ordinance and any successor to its respective functions under this ordinance that hereafter may be designated by the CTA.

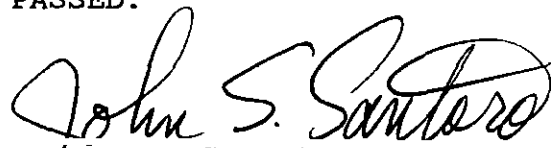
SECTION 11. If any part of this Ordinance is declared invalid or void, the remainder of the Ordinance shall remain in full force and effect.

SECTION 12. This ordinance shall be in full force and effect from and after its passage.

APPROVED:


Chairman

PASSED:


Secretary

September 11, 1991

September 11, 1991

EXHIBIT 1

AMENDED AND RESTATED GUIDELINES
GOVERNING ALL ADVERTISING IN OR UPON
CHICAGO TRANSIT AUTHORITY VEHICLES AND FACILITIES

1. All advertising must comply with all applicable laws and with all ordinances, rules, regulations, requirements, and specifications promulgated by the Chicago Transit Authority ("CTA").
2. All advertising must be produced through a process that ensures reproduction of good quality, on materials of specific quality and size, all according to uniform specifications promulgated by the CTA.
3. All commercial advertising must be truthful. False, deceptive, or misleading commercial advertising is not permitted. Commercial advertising offering premiums or gifts must not misstate their value. Commercial advertising that proposes transactions which would constitute unlawful discrimination or would be illegal for any other reason is not permitted.
4. Advertising that is legally obscene is not permitted. In addition, sexually explicit advertising depicting nudity (male or female genitals, pubic areas, or buttocks with less than a fully opaque covering; female breasts with less than a fully opaque covering or any part of the areolae or nipples; or the covered genitals in a discernibly turgid or otherwise recognizable state) or sexual intercourse or other sexual acts is not permitted.
5. Advertising that portrays graphic violence, such as through the depiction of human or animal bodies, body parts, or fetuses in states of mutilation, dismemberment, disfigurement or decomposition, is not permitted.
6. Advertising that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action, including but not limited to unlawful action based on a person's or persons' race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital or parental status, military discharge status, or source of income, is not permitted.

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7. If advertising contains a testimonial, then the sponsor shall provide to the CTA documentation that the person making the testimonial has authorized its use in the advertising.
8. Advertising cannot encourage persons to refrain from using safety precautions normally used in transit-related activities, such as awaiting, boarding, riding upon, or debarking from transit vehicles.
9. Advertising cannot contain CTA graphics or representations without the express written consent of the CTA.
10. No implied or declared CTA endorsement, rejection, or opinion respecting any product or service is permitted.
11. Each sponsor shall indemnify and hold harmless the CTA and its directors, officers, representatives, employees, and agents from any and all claims, demands, liabilities, or causes of action of any kind, including costs and attorneys' fees, arising out the sponsor's advertising.
12. The placement of non-public-service advertising shall take precedence over the placement of public service advertising.

EXHIBIT 2

AMENDED AND RESTATED GUIDELINES
GOVERNING PUBLIC SERVICE ADVERTISING IN OR UPON
CHICAGO TRANSIT AUTHORITY VEHICLES AND FACILITIES

1. All public service advertisements ("PSA's") must comply with the Amended and Restated Guidelines Governing All Advertising in or upon Chicago Transit Authority Vehicles and Facilities (except those guidelines specifically applicable only to commercial advertising).
2. A PSA must be non-commercial, non-partisan, and not designed to influence a specific piece of legislation.
3. The CTA's limited PSA space shall be allocated on a first-come, first served basis.
4. The sponsor of a PSA must meet the requirements for a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, or be an organization that has no net earnings that inure to the benefit of any private shareholder or individual and that is organized for one or more of the following or similar purposes: charitable, benevolent, eleemosynary, educational, civic, patriotic, political, religious, social, literary, promotion of amateur sports, scientific, research, or agricultural.
5. The sponsor of a PSA shall pay the applicable labor costs for installation and removal of the PSA as charged by the CTA's advertising contractor and approved by the Contracting Officer.
6. PSA's may be posted only inside CTA buses and rapid transit cars.