A RESOLUTION AFFIRMING THE TOWN'S TRANSIT ADVERTISING FEE SCHEDULE AND POLICY FOR THE POSTING OF ADVERTISING ON THE EXTERIOR AND INTERIOR OF FIXED ROUTE BUSES WITH MINOR CLARIFYING ADJUSTMENTS (2012-12-03/R-11)

WHEREAS, on June 13, 2011, the Town Council of the Town of Chapel Hill adopted by Resolution a fee schedule and new policy for the posting of advertising on the exterior and interior of fixed route buses; and

WHEREAS, a petition was presented to the Town Council in September, 2012, asking the Council to reconsider this policy and to eliminate that portion of the policy which provided for the posting of political, religious and issue oriented advertising; and

WHEREAS, the Council conducted a public forum on October 11, 2012, in response to that petition and received and considered a staff report and public comment;

WHEREAS, the Council considered this matter on November 5, 2012, and received further public comment; and

WHEREAS, on November 5, 2012, the Council referred this matter to the Transit Partners for comment; and

WHEREAS, the Council has received and considered that comment and additional public input;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council finds that the draft policy presented on June 13, 2011 (but not approved by the Council) and subsequently used by Town Transit Staff is, with some minor adjustments, an appropriate policy to use to review proposed advertising on Town Transit buses;

BE IT FURTHER RESOLVED that the Council adopts as the new fee schedule and policy for transit advertising Policy Option 5, as attached, and the Town Manager is directed to follow that policy as so modified

This the 3rd day of December, 2012.

TRANSIT ADVERTISING FEE SCHEDULE AND POLICY

Transit services in Chapel Hill are provided through a partnership of Chapel Hill, Carrboro and the University of North Carolina. Chapel Hill Transit offers transit advertising as a source of revenue to help offset system operating costs. Advertising is sold on the exterior and interior of all fixed route buses. The following are transit advertising rates and policies governing transit advertising.

TRANSIT ADVERTISING RATES

Bus Wraps	Monthly Rate	Minimum Contract
Full Wrap	\$1500	12 months

Exterior Bus Signage: Kings (144"x30")

Number of Displays	12 Months Each	6 Months Each Sign	1-3 Months Each	
	Sign		Sign	
1-10	\$180	\$200	\$220	
11-20	\$175	\$195	\$215	
21 & up	\$170	\$190	\$210	

Queens (108"x30")

Number of Displays	12 Months Each Sign	6 Months Each Sign	1-3 Months Each Sign
1-10	\$162	\$180	\$198
11-21	\$157	\$175	\$193
21 & up	\$152	\$170	\$188

Taillight

Number of Displays	12 Months Each	6 Months Each Sign	1-3 Months Each
	Sign		Sign
1-10	\$163	\$170	\$187
11-120	\$158	\$165	\$182
21 & up	\$152	\$160	\$177

All production costs are the responsibility of the advertiser. For wraps the cost of installation and returning the bus to original condition are also the responsibility of the advertiser.

All advertising creative and design must be approved by Chapel Hill Transit prior to production and can be declined if we believe it is not in compliance with transit advertising policies and standards.

Agency commissions will be paid on contract of 6 month or more.

POLICIES AND STANDARDS FOR ADVERTISING

ON CHAPEL HILL TRANSIT FACILITIES

Chapel Hill Transit (CHT) is a regional transit system created under section of the Town of Chapel Hill Ordinances. Chapel Hill Transit owns and operates buses, bus shelters, a garage and other properties (collectively referred to as "Transit Facilities") in conjunction with its regional transit system. It is in the public interest to make advertising space available upon payment of rent in accordance with CHT's adopted rental schedule on certain designated Transit Facilities to generate revenue and help fund the operation of the regional transit system or upon acceptance of the advertising as unpaid public advertising or public service announcements in accordance with this policy in order to support public agencies and community non-profit services.

I. PURPOSE

- 1.01 Limited Public Forum; Commercial/Proprietary Functions. Chapel Hill Transit will rent space on its Transit Facilities for limited types of advertising ("Permitted Advertising"). By allowing limited types of advertising on or within its buses and or/bus shelters and providing limited space at no charge pursuant to this policy, Chapel Hill Transit does not intend to create a full public forum for open public discourse or expressive activity, or to provide a forum for all types of advertisements. The display of Permitted Advertising upon payment of rent in accordance with CHT's adopted rental schedule on designated Transit Facilities is intended only to supplement fare revenue, tax proceeds and other income that fund the regional transit system.
- **1.02 Certain Excluded Advertising.** Chapel Hill Transit will not accept for display on its Transit Facilities the types of advertising defined in Section 2.01 of these policies and standards ("Excluded Advertising"). By not accepting Excluded Advertising, Chapel Hill Transit can:
 - (a) maintain a professional advertising environment that maximizes advertising revenues and minimizes interference or disruption of the commercial aspects of its regional transit system;
 - (b) protect passengers, employees and Chapel Hill Transit facilities from harm or damage that can result from some individual's reactions to political or controversial materials; and
 - (c) help build and retain transit ridership.
- **1.03 Limits on Permitted Advertising.** Placing reasonable limits on Permitted Advertising displayed on its Transit Facilities will enable Chapel Hill Transit to:
 - (a) avoid subjecting its passengers and other members of the public to material that may discourage them from using regional transit services;
 - (b) maintain an image of professionalism and decorum;
 - (c) avoid displaying material that is not suitable for viewing by minors who ride on Chapel Hill Transit buses or those individuals whose neighborhoods are served by

Chapel Hill Transit bus routes; and

(d) maximize revenues by attracting and maintaining the patronage of passengers.

II. ADVERTISING POLICIES

- **2.01 Excluded Advertising.** For the purposes of these policies and standards, the advertising described in this Section 2.01 is "Excluded Advertising." Chapel Hill Transit will not accept the following Excluded Advertising for display, posting or placement on or within its buses, or other Transit Facilities:
 - (a) *Alcoholic Beverages*. Advertisements and images soliciting or promoting the sale or use of alcoholic beverages.
 - (b) *Tobacco Products*. Advertisements and images soliciting or promoting the sale or use of tobacco products including, but not limited to, cigarettes, cigars and smokeless tobacco.
 - (c) *Advertisements about Chapel Hill Transit.* Advertisements and images that relate to Chapel Hill Transit and services, except public service advertisements provided by Chapel Hill Transit itself.
- **2.02 Permitted Advertising.** Subject to the viewpoint-neutral standards contained in Section 3.01 of these policies and standards, Chapel Hill Transit will accept "Permitted Advertising" for display or placement on designated Chapel Hill Transit Facilities. For the purposes of these policies, "Permitted Advertising" is advertising that:
 - (a) Does not qualify as Excluded Advertising under Section 2.01.
 - (b) Generally relates to the economic interests of the advertiser and its audience. Advertising defined in Section 3.02 and 3.03 also is Permitted Advertising.

2.03 Prohibitions on Literature or Product Distribution and Leafleting.

Chapel Hill Transit's purpose in operating a regional transit system is to meet the public's need for efficient, effective and safe public transportation. Chapel Hill Transit Facilities are not intended to be public forums for public discourse or expressive activity. Literature or product distributions, leafleting and similar activities can disrupt or delay passengers who are boarding and exiting buses and other transit vehicles, distract passengers, distract bus operators, cause maintenance issues, and otherwise create safety issues for passengers, operators and surrounding traffic. Accordingly, distribution of literature, leafleting, and other informational or activities are prohibited within Chapel Hill Transit buses or other transit vehicles and within Chapel Hill Transit bus shelters, except for the provision of leaflets and information provided by Chapel Hill Transit itself that are related to provision of or are for the benefit of transportation-related public services or public events sponsored by the Town of Chapel Hill, the Town of Carrboro, or the University of North Carolina.

III. ADVERTISING STANDARDS AND RESTRICTIONS

3.01 Advertising Standards and Restrictions. Chapel Hill Transit will make available on designate Chapel Hill Transit Facilities space for advertisements subject to the viewpoint-neutral restrictions in this Section 3.01 that limit certain forms of advertising.

Advertisements cannot be displayed or maintained on Chapel Hill Transit Facilities if the advertisement or information contained in the advertisement falls within one or more of the following categories:

- (a) *False, Misleading, or Deceptive Advertising*. Advertising or any material or information in the advertising that is false, misleading or deceptive.
- (b) *Disrespectful Advertising*. Advertising or any material or information in advertising that is, or that is intended to be (or reasonably could be interpreted as being) disparaging, disreputable or disrespectful to persons, groups, businesses or organizations, including but not limited to advertising that portrays individuals as inferior, evil or contemptible because of their race, color, creed, sex, pregnancy, age, religion, ancestry, national origin, marital status, disability, including those related to pregnancy or child birth, gender identity, or gender expression or sexual orientation, or any other characteristic protected under federal, state or local law.
- (c) *Unauthorized Endorsement.* Advertising that implies or declares that Chapel Hill Transit endorses a product, service, point-of-view, event or program. The prohibition against endorsement does not apply to advertising for a service, event or program for which Chapel Hill Transit is an official sponsor, co-sponsor or participant, provided Chapel Hill Transit's Director or other designated representative gives prior written approval regarding the endorsement.
- (d) *Obscene Material.* Advertising that contains obscene materials as defined in North Carolina General Statute Sec. 14-190.1(b), or that displays sexual conduct or information in a manner that would be offensive to a reasonably prudent person of average sensitivity in the community.
- (e) *Offensive Materials*. "Offensive materials" means displays or information that would be offensive to a reasonably prudent person of average sensitivity in the community, including advertising that contains derisive, distorted, immoral, profane or disreputable language or impressions.
- (f) *Unlawful Goods or Services.* Advertising or any material or information in the advertising that depicts, promotes or reasonably appears to encourage the use or possession of unlawful or illegal goods or services.
- (g) *Unlawful Conduct.* Advertising or any material or information in the advertising that: depicts, promotes or reasonably appears to encourage unlawful or illegal behavior or conduct, including unlawful behavior of a violent or antisocial nature; is libelous or an infringement of copyright; is otherwise unlawful or illegal; or is likely to subject Chapel Hill Transit to liability.

- (h) *Adult Entertainment.* Advertising that promotes or displays images associated with adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments, adult telephone services, adult internet sites and escort services.
- (i) *Graffiti.* Advertising that uses images or symbols that depict or represent graffiti.
- (j) *Illegal Firearms and Weapons*. Advertising that contains images or depictions of illegal firearms or any firearms, or the unlawful use of firearms or other weapons.
- (k) Internet Addresses and Telephone Numbers. Advertising that directs viewers to internet addresses or telephone numbers that contain materials, images or information that would violate these advertising standards if the materials, images or information were contained in advertising displayed or posted on Chapel Hill Transit Facilities.
- (l) **Distractions and Interference.** Advertising that incorporates or displays any rotating, revolving, or flashing devices or other moving parts or any word, phrase, symbol or character, any of which are likely to interfere with, mislead or distract traffic or conflict with any traffic control device or motor vehicle regulation.
- (m) Libelous Material. Advertising that is libelous.
- **3.02 Political Campaign Advertising**. Advertising promoting or opposing named candidates for elective office or issues upon which a referendum is being held shall be permissible. All such advertising shall bear conspicuously a paid advertising disclaimer that shall be consistent with the requirements as outlined in Attachment A.
- 3.03 Other Permitted Advertising and Public Service Announcements. Chapel Hill Transit may make advertising space available for advertising proposed by governmental entities, academic institutions or tax-exempt nonprofit organizations (examples include: ads focusing on personal health or wellness issues, or ads informing the public about programs, services or events). Non- profit entities must document their tax-exempt status. On a limited basis, Chapel Hill Transit may make unpaid advertising space available for public service announcements. Costs associated with the design, production, installation and removal of public service announcements are the responsibility of the group or organization requesting the public service announcement. The advertising and public service announcements permitted under this section cannot contain displays or messages that qualify as Excluded Advertising under Section 2.01 and must comply with these advertising policies and standards. Unless the source of the advertising or public service announcement is obvious from the content or copy, the advertisement or public service announcement, whether paid or un-paid, must specifically identify the sponsor of the advertisement or the message and, if paid, shall bear conspicuously a paid advertising disclaimer that shall be consistent with the requirements as outlined in Attachment A.

- **3.04 Space Availability.** Chapel Hill Transit limits the amount of space on its Transit Facilities available for advertising and does not represent that it can accommodate all requests for advertising space. Advertising space will be made available only on Chapel Hill Transit Facilities designated by Chapel Hill Transit. No advertising, signs and other types of postings or messages may be displayed, posted or placed on any other Chapel Hill Transit Facilities.
- **3.05 Agency Disclaimer.** Chapel Hill Transit shall have the exclusive right to place disclaimers on or adjacent to any advertising accepted for posting in order to clearly represent that the views expressed in any particular ad are not endorsed by Chapel Hill Transit or the Town of Chapel Hill, but no such disclaimer may be posted in a manner to alter or impede the message contained in the advertising being posted.
- 3.06 Reservation of Rights. Chapel Hill Transit reserves the right to amend these policies and standards at any time. Subject to any contractual obligations, Chapel Hill Transit reserves the right to discontinue advertising on Chapel Hill Transit Facilities and discontinue accepting advertising for display or posting on Chapel Hill Transit Facilities. Chapel Hill Transit reserves the right to limit the availability of advertising space on its Transit Facilities and remove advertising that does not comply with these advertising policies and standards and, subject to any contractual obligations.

IV. APPEAL OF ADVERTISING DECISIONS

- **4.01 Initial Reviews.** Chapel Hill Transit's Advertising Manager will make initial decisions about accepting or rejecting proposed advertising. The decisions will be based on these policies and standards. Chapel Hill Transit's Advertising Manager, or other designated Chapel Hill Transit staff, will work with advertisers to resolve issues about advertisements that do not comply with these policies and procedures. Resolution may include modification of the art, copy, or both.
- **4.02 Appeals to Transit Director.** An advertiser may appeal a decision to reject or remove an advertisement by filing a written request with the Transit Director within ten (10) business days after the rejection or removal decision. The advertiser's request must state why the advertiser disagrees with the decision in light of Chapel Hill Transit's advertising policies and standards. The Transit Director may consult with the Town legal counsel. The Director will review the basis for the rejected or removed advertisement and will consider the advertiser's reasons for filing the request. The Transit Director will make a decision on the request and will notify the advertiser of its decision in writing within fifteen (15) business days after receiving the advertiser's request.
- **4.03 Further Review by Town Manager.** The Town Manager may review Transit Director's decisions.

ATTACHMENT A POLITICAL, RELIGIOUS, OR ISSUES ADVERTISING DISCLAIMER REQUIREMENTS

I. DISCLAIMER REQUIREMENTS

- A. **Political Candidates** On an advertisement that is authorized and paid for by a candidate or his/her campaign committee, the disclaimer must identify:
 - 1. Who paid for the message.
- B. Political Candidate Advertisement Paid by a Different Party On an advertisement that is authorized by a candidate or his/her campaign committee, but is paid for by another person, the disclaimer notice must:
 - 1. Identify who paid for the communication.
 - 2. Indicate that the candidate authorized the message.
- C. **Political Advertisement Not For Political Candidate** On an advertisement that is not authorized by a particular candidate or his/her campaign committee, the disclaimer notice must:
 - 1. Identify who paid for the message.
 - 2. State that it was not authorized by any candidate or candidate's committee.
 - 3. List the permanent address, telephone number or world wide web address of the person who paid for the communication.

D. Religious Oriented, Political Issue or Other Noncommercial Issue Ads

- The disclaimer notice must:
 - 1. Identify who paid for the message.
 - 2. List the permanent address, telephone number or world wide web address of the person who paid for the communication.