

RESOLUTION NO. 2

A RESOLUTION OF THE BOARD OF PUBLIC WORKS AND SAFETY OF THE CITY OF VALPARAISO, INDIANA , ADOPTING AN ADVERTISING POLICY FOR THE V-LINE AND CHICAGO DASH BUS SERVICES

WHEREAS, the City of Valparaiso, Indiana, by and through its Board of Public Works and Safety, owns and operates the V-Line and Chicago Dash bus services; and

WHEREAS, the primary purpose of the V-Line and Chicago Dash bus services is to provide safe and efficient public transportation services for persons using its buses; and

WHEREAS, the Board of Public Works and Safety of the City of Valparaiso, Indiana, is desirous of permitting certain advertising on the V-Line and Chicago Dash buses in order to generate additional revenue to subsidize the cost of owning and operating the bus systems; and

WHEREAS, as part of its decision to permit certain advertising on the V-Line and Chicago Dash bus services the Board of Public Works and Safety of the City of Valparaiso, Indiana, desires to adopt a formal advertising policy; and

WHEREAS, the Board of Public Works and Safety of the City of Valparaiso, Indiana, intends that the V-Line and Chicago Dash buses constitute non-public forums that are subject to the viewpoint-neutral guidelines set forth in this Resolution; and

WHEREAS, the Board of Public Works and Safety of the City of Valparaiso, Indiana, has determined to permit certain forms of public service and commercial advertising in or upon the V-Line and Chicago Dash buses; and

WHEREAS, many V-Line and Chicago Dash passengers have limited or no alternatives but to use the V-Line and Chicago Dash buses for transportation to and from school, work, recreation, and other locations and are a captive audience to advertising therein or thereon; and

WHEREAS, a portion of the persons using the V-Line and Chicago Dash buses are minors and may be affected adversely by certain advertising; and

WHEREAS, the Board of Public Works and Safety of the City of Valparaiso, Indiana, in establishing its standards for advertising in/on the V-Line and Chicago Dash buses seeks to maximize revenue generated by advertising while simultaneously maximizing ridership by fulfilling its mission to provide safe, courteous and dependable public transportation at the most reasonable cost to our community; and

WHEREAS, the Board of Public Works and Safety of the City of Valparaiso, Indiana, desires to avoid any endorsement, implied or otherwise, or any of the products, services or messages advertised.

NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works and Safety of the City of Valparaiso, Indiana, that the following procedures and standards shall govern all advertising on all V-Line and Chicago Dash buses.

Section 1. Review by Transportation Manager. The City of Valparaiso's Transportation Manager shall review each advertisement submitted for display on the V-Line or Chicago Dash buses to determine whether or not the advertisement violates the advertising standards set forth in this Resolution. In the event that the Transportation Manager determines that an advertisement violates the advertising standards set forth in this Resolution then the Transportation Manager shall send written notification to the advertiser indicating that the advertisement has been rejected and will include a copy of this Resolution and will specify which of the categories the advertisement violations. The Transportation Manager may at his sole discretion include suggestions for compliance with the standards set forth in this Resolution.

Section 2. Advertising Standards. The following types of advertisements are hereby prohibited on the V-Line and Chicago Dash buses and shall not be displayed or maintained therein or thereon.

a. **Demeaning or disparaging.** The advertisement contains material that demeans or disparages an individual or group of individuals on the basis of race, color, religion, national origin, ancestry, gender, age, disability, ethnicity, gender, material or parental status, military discharge status, source of income or sexual orientation.

b. **Alcohol, tobacco and firearms.** The advertisement promotes the sale or use of alcohol, tobacco, firearms or alcohol-, tobacco-, or firearms-related products, including depicting such products. This prohibition on advertising promoting the sale or use of alcohol, tobacco or firearms shall not apply so as to prohibit advertisement by a manufacturer promoting responsibility programs related to the safe and legal use of such products.

c. **Profanity.** The advertisement contains profane language, i.e., language containing personally reviling epithets naturally tending to provoke violent resentment or language that under contemporary community standards is so grossly offensive to members of the public who actually hear it as to amount to a nuisance.

d. **Violence.** The advertisement contains an image or description of violence, including, but not limited to: (1) the depiction of human or animal bodies or body parts, or fetuses, in states of mutilation, dismemberment, decomposition, or disfigurement; or (2) the depiction of weapons or other implements or devices used in the advertisement in an act or violence or harm on a person or animal.

e. **Unlawful goods, services or conduct.** The advertisement, or any material contained in it, promotes or encourages, or appears to promote or encourage, unlawful or illegal goods, services, behavior or activity.

f. **Obscenity or nudity.** The advertisement contains legally obscene material or depicts nudity or sexual intercourse or other sexual acts. For purposes of these standards, the

terms “obscene” or “nudity” shall have the meanings contained in Ind. Code § INSERT CODE SECTION HERE.

g. Prurient sexual suggestiveness. The advertisement contains material that incites, describes, depicts or represents sexual activities or images or descriptions of human sexuality or anatomy in a way that the average adult, applying contemporary community standards, would find appeals to the prurient interest. The advertisement promotes the sale of pornography, adult telephone or internet services, escort services, nude dance clubs, sensual massage or any other form of adult-oriented entertainment.

h. Endorsement. The advertisement, or any material contained in it, implies or declares an endorsement by the City of Valparaiso, Indiana, or any of its boards, commissions, employees or agents of any service, product, or point of view; without prior written authorization of the Transportation Manager.

i. False, misleading, or deceptive speech. The advertisement, or any material in it is false, misleading or deceptive.

j. Libelous speech, copyright infringement, etc. The advertisement, or any material contained in it, is libelous or an infringement of copyright, or is otherwise unlawful or illegal or is likely to subject the City of Valparaiso to litigation.

k. Disregard for transit safety. 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).

l. Unclear identification of the advertiser. The advertisement is such that (1) the message or sponsorship of the advertisement cannot reasonably be determined without reference to a web site or telephone number that is listed in the advertisement, and (2) that web site prominently contains, or that telephone number directs callers to, material that violates these standards.

m. Non-paid advertising. The City of Valparaiso requires all advertising to be contracted according to the pricing set forth in the current published advertising rates as set by the Board of Public Works and Safety. No free advertising of any kind is accepted. Trade agreements (in which, in lieu of cash, the City of Valparaiso accepts products or services that are deemed useful to it) may be accepted upon approval by the Board of Public Works and Safety.

n. Non-commercial. The subject matter and intent of the advertisement is non-commercial and does not promote for sale, lease or other form of financial benefit a product, services, event or other property interest in primarily a commercial manner for primarily a commercial purpose.

Section 3. Public Services Announcements. The City of Valparaiso may make advertising space available for public service announcements by governmental entities, academic institutions or nonprofit organizations. Such announcements are subject to the advertising

standards set forth in this Resolution and shall not express or advocate opinions or positions upon political, religious or moral issues.

Section 4. Appeal. Advertisers may appeal the rejection of advertising to the Board of Public Works and Safety of the City of Valparaiso, Indiana, by notifying the Board, in writing, within 30 days of the rejection. The Board of Public Works and Safety will consider the appeal at its next regularly scheduled meeting and notify the advertiser of the decision within 5 days of the meeting date.

Section 5. Applicability. These standards apply to all advertising coordinated or sold by the City of Valparaiso, Indiana, any sub-contractor or third party partner. The City of Valparaiso, Indiana, by and through its Board of Public Works and Safety, reserves the right to suspend, modify, or revoke the application of any or all of these standards as it deems necessary to comply with legal mandates, to accommodate its primary transportation function, or to fulfill its goals and objectives.

Section 6. Severability. If any portion of this Resolution shall be held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other portion or provision of this Resolution.

Section 7. Repealer. All resolutions or parts of resolutions inconsistent with this Resolution are hereby repealed to the extent of such inconsistency. It is provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects the resolutions or parts of resolutions are hereby ratified, re-established and confirmed.

Section 8. Effective Date. This Resolution shall be in full force and effect from and after its adoption and the procedures required by law.

Passed this 22nd day of March, 2012, by a vote of 3-0.

FAVOR

OPPOSED

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ATTEST:

Sharon Emerson Spohr
Clerk-Treasurer