

City of Worcester
Off-Street Parking Board
Advertising Policy & Guidelines

Purpose

Through these Guidelines the Off-Street Parking Board ('OSPB') of the city of Worcester ("City") intends to establish uniform, viewpoint-neutral standards for the display of advertising in the parking facilities placed under its care, custody and control. In setting its advertising standards, the OSPB seeks to fulfill the following goals and objectives:

- (a) maximization of revenue generated by advertising;
- (b) maximization of revenue generated by attracting, maintaining, and increasing the use of city parking facilities;
- (c) maintaining the safe and orderly operation of city parking facilities;
- (d) maintaining a safe and welcoming environment for all users of city parking facilities;
- (e) avoiding the identification of the city government with advertisements or the viewpoints of the advertisers.

The OSPB reserves the right, from time to time, to suspend, modify or revoke the application of any or all of these Guidelines as it deems necessary to comply with legal mandates, to accommodate its primary function and to fulfill the goals and objectives referred to herein. All the provisions of these Guidelines shall be deemed severable.

Advertising Program and Administration

- (a) These guidelines shall apply to advertising on or in all parking facilities placed under the care, custody and control of the OSPB.
- (b) The City, acting by and through its OSPB, may, from time to time, select an "Advertising Contractor" who shall be responsible for the daily administration of the OSPB's advertising program in a manner consistent with these Guidelines and the terms of its agreement with the City. The advertising program shall include, but not be limited to, promotion, solicitation, sales, accounting, billing, collections and posting of advertising displays on or in all OSPB facilities.
- (c) The Advertising Contractor shall provide, or shall subcontract for, all employees and equipment necessary to perform the work and provide the services required by the OSPB.
- (d) The City shall designate a "Contract Administrator" to be the primary contact for the Advertising Contractor. Questions regarding the terms, provisions and requirements of these Guidelines shall be addressed initially to the Contract Administrator.

City Operations and Promotions

The OSPB reserves the right to display, on or in its equipment and facilities, advertisements and notices that pertain to the City operations and promotions, consistent with the provisions of its agreement with the Advertising Contractor.

Disclaimer

The OSPB reserves the right, in all circumstances, to require that an advertisement on or in its equipment and facilities include a disclaimer indicating that it is not sponsored by, and does not necessarily reflect the views of, the City of Worcester, Massachusetts.

Advertising Standards

- (a) The OSPB intends that its equipment and facilities constitute nonpublic forums that are subject to the viewpoint-neutral restrictions set forth below. Certain forms of paid and unpaid advertising will not be permitted for placement or display on or in the OSPB equipment and facilities.
- (b) The OSPB shall not display or maintain any advertisement that falls within one or more of the following categories:
 - (i) Demeaning or disparaging. The advertisement contains material that demeans or disparages an individual or group of individuals. For purposes of determining whether an advertisement contains such material, the OSPB will determine whether a reasonably prudent person, knowledgeable of the city and using prevailing community standards, would believe that the advertisement contains material that ridicules or mocks, is abusive or hostile to, or debases the dignity or stature of, an individual or group of individuals.
 - (ii) Tobacco. The advertisement promotes the sale or use of tobacco or tobacco-related products, including but not limited to depicting such products.
 - (iii) Alcohol. The advertisement advertises an alcohol product or a brand of alcohol products.
 - (iv) Profanity. The advertisement contains profane language.

- (v) Firearms. The advertisement either (a) advertises a firearm or a brand of firearms, (b) contains an image of a firearm in the foreground of the main visual or (c) contains image(s) of firearm(s) that occupy 15% or more of the overall advertisement.
- (vi) Violence. The advertisement contains an image or description of graphic violence, including but not limited to (1) the depiction of human or animal bodies, body parts or fetuses, in states of mutilation, dismemberment, decomposition or disfigurement, and (2) the depiction of weapons or other implements or devices used in the advertisement in an act or acts of violence or harm on a person or animal.
- (vii) Unlawful goods or services. The advertisement, or any material contained in it, promotes or encourages, or appears to promote or encourage, the use or possession of unlawful or illegal goods or services.
- (viii) Unlawful conduct. The advertisement, or any material contained in it, promotes or encourages, or appears to promote or encourage, unlawful or illegal behavior or activities.
- (ix) Obscenity or nudity. The advertisement contains obscene material or images of nudity. For purposes of these Guidelines, the terms “obscene” and “nudity” shall have the meanings contained in Massachusetts General Laws Ch. 272, §31.¹
- (x) Prurient sexual suggestiveness. The advertisement contains material that describes, depicts or represents sexual activities or aspects of the human anatomy in a way that the average adult, applying contemporary community standards, would find appeals to the prurient interest of minors or adults in sex. For purposes of these Guidelines, the term “minor” shall have the meaning contained in Massachusetts General Laws Ch. 272, §31.²
- (xi) Political Campaigning and Electioneering. The advertisement: (1) refers to a specific ballot question, initiative petition, or referendum; (2) promotes or opposes a political party for local, state, or federal election; or (3) promotes or opposes a candidate or group of candidates for public office. For purposes of these Guidelines, the term “candidate” shall include any person actively campaigning for office or who has filed their candidacy or declared their intent to run for office.
- (xii) Endorsement. The advertisement, or any material contained in it, implies or declares an endorsement by the City of any service, product or point of view.

- (xiii) False, misleading, or deceptive commercial speech. The advertisement proposes a commercial transaction, and the advertisement, or any material contained in it, is false, misleading or deceptive.
- (xiv) 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 likely to subject the OSPB to litigation.
- (xv) Adult-oriented goods or services. The advertisement promotes or encourages, or appears to promote or encourage, a transaction related to, or uses brand names, trademarks, slogans or other materials which are identifiable with, films rated "X" or "NC-17," video games rated M or AO, adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments, adult telephone services, adult internet sites and escort services.

1 Mass. Gen. Laws Ch. 272, §31, defines "obscene" as follows: "matter is obscene if taken as a whole it (1) appeals to the prurient interest of the average person applying the contemporary standards of the county where the offense was committed; (2) depicts or describes sexual conduct in a patently offensive way; and (3) lacks serious literary, artistic, political, or scientific value" Mass. Gen. Laws. Ch. 272, §31, defines "nudity" as follows: "uncovered or less than opaquely covered human genitals, pubic areas, the human female breast below a point immediately above the top of the areola, or the covered male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple or areola only are covered."³

2 Mass. Gen. Laws Ch. 272, §3 I, defines "minor" as "a person under eighteen years of age.

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