

ORDINANCE NO. _____

BILL NO. 14 (2016)

A BILL FOR AN ORDINANCE AMENDING TITLE 11, MAUI COUNTY CODE,
RELATING TO ADVERTISING INSIDE COUNTY TRANSIT BUSES

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 11.01.010, Maui County Code, is amended to read
as follows:

“11.01.010 Purpose and intent. The purpose and intent of this title is to regulate the public transit system system for the County of Maui to provide reliable transportation services while protecting the health, safety, and welfare of the people. The display of advertising on interior or exterior of County buses, or on County bus passes is intended solely to generate revenue incidental to the operation of the public transit system; it is not the County’s intent to allow or cause any of its buses or bus passes to become a public forum for the dissemination, debate, and/or discussion of public issues.”

SECTION 2. Section 11.01.020, Maui County Code, is amended by
adding new definitions to be appropriately inserted and to read as follows:

“Advertising” means signage, stickers, posters, flyers, brochures, banners, videos, displays, or any other means of promotion of any product or service.

“Copyright infringement” means the use of works protected by copyright law without permission, infringing certain exclusive rights granted to the copyright holder, such as the right to reproduce, distribute, display or perform the protected work, or to make derivative works.

“False or misleading” means untruthful, inaccurate, misleading, or deceptive commercial speech.

“Libelous speech” means any written matter, pictures or depiction injurious to the reputation of another.

“Minors” means any person less than eighteen years old.

“Obscene” or “illicit” means any material as described in section 712-1211(1), Hawaii Revised Statutes.

“Political or campaign speech” means any material that (1) refers to or supports a specific ballot question, initiative, petition, or referendum, or (2) refers to any candidate for public office, or (3) bears the name, signature, picture, or likeness of any publicly elected official or of any candidate for elective office.

“Pornographic” has the same meaning as “pornographic” as defined in section 712-1210, Hawaii Revised Statutes.

“Profanity” means vulgar, irreverent, or coarse language.

“Trademark” means a mark used by a person to identify goods and to distinguish them from the goods of others.”

SECTION 3. Section 11.02.040, Maui County Code, is amended to read as follows:

"11.02.040 Advertising inside County transit buses. A. The department may rent or let advertising spaces inside County transit buses[;], provided that the following types of advertising shall not be accepted:

1. Advertising that [bears the name, signature, picture, or likeness of any publicly-elected official or of any candidate for elective office;]contains political or campaign speech.

2. Advertising that, by reason of design, format, or subject matter, promotes or appeals to racial, religious, or ethnic prejudice or violence[;].

3. Advertising that contains pictures, words, or symbols of an obscene, illicit or pornographic [lewd, lascivious, or indecent] character[;].

4. Advertising that promotes illegal[, indecent, or immoral] activities[; and].

5. Advertising of any product or service that is prohibited by law to be sold or offered for sale to minors.

6. Advertising that contains profanity or depicts violence.

7. Advertising that contains false or misleading information, copyright or trademark infringement, or is otherwise unlawful.

8. Any material that implies or declares an endorsement by the County of any service, product or point of view, without prior written authorization by the department.

9. Advertising that contains libelous speech.

10. Advertising that is harmful to or disruptive to the transit system.

11. Advertising that emits lights, noise, or special effects.

B. A tax-exempt organization shall not be denied the use of advertising space in a County transit bus solely because the announcement or advertisement refers to the location of an event sponsored by the tax-exempt organization, even if the location of the event is not owned or operated by the tax-exempt organization. All such advertising shall be provided on a space available basis, in consideration of revenue generating advertisements described under subsection 11.02.040(C).

C. Rates for renting or letting of advertising spaces in County transit buses shall be set forth in the annual budget. The department is authorized to enter into contracts for advertising with private vendors provided that all procurement laws are met and in accordance with the following:

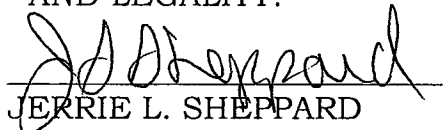
1. The County's share of the revenues generated shall be placed in the County highway fund.

2. An annual report of revenues received shall be transmitted to the county council during the annual budget process."

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



JERRIE L. SHEPPARD
Deputy Corporation Counsel
County of Maui
2014-3082

DIGEST

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RELATING TO ADVERTISING INSIDE COUNTY TRANSIT BUSES

This bill proposes to amend Title 11, Maui County Code, to offer advertising inside County transit buses to tax-exempt organizations on a space-available basis and to authorize the Department of Transportation to contract for advertising with private vendors.

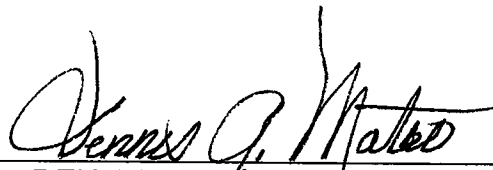
I, DENNIS A. MATEO, County Clerk of the County of Maui, State of Hawaii, DO HEREBY CERTIFY that the foregoing BILL NO. 14 (2016) was passed on First Reading by the Council of the County of Maui, State of Hawaii, on the 5th day of February, 2016, by the following vote:

AYES: Councilmembers Robert Carroll, Eleanora Cochran, Donald G. Couch Jr., S. Stacy Crivello, G. Riki Hokama, Vice-Chair Donald S. Guzman, and Chair Michael B. White.

NOES: None.

EXCUSED: Councilmembers Gladys C. Baisa and Michael P. Victorino.

DATED at Wailuku, Maui, Hawaii, this 8th of February, 2016.



DENNIS A. MATEO, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII

Copies of the foregoing Bill, in full, are on file in the Office of the County Clerk, County of Maui, for use and examination by the public.