



## BY-LAW

NO. 2023 – 117

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### Being a By-law to Adopt an Advertising and Revenue Generation Policy for The Corporation of the Municipality of Kincardine

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**Whereas** pursuant to the said Municipal Act, Sections 8 and 9 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

**Whereas** Section 270 (1) of the Municipal Act 2001, S.O. 2001, c. 25, as amended, requires a municipality to adopt and maintain a policy with respect to the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public; and

**Whereas** the Council of the Corporation of the Municipality of Kincardine desires to adopt a new Advertising and Revenue Generation Policy; now therefore be it

**Resolved** that the Council of The Corporation of the Municipality of Kincardine **Enacts** as follows:

1. That the Advertising and Revenue Generation Policy for The Municipality of Kincardine, attached hereto as Schedule 'A' and forming part of this By-law be adopted.
2. That this By-law shall come into full force and effect upon its final passing.
3. That all other Policies passed by By-law or Resolution inconsistent with this By-law, be repealed.
4. That By-law may be cited as the "Advertising and Revenue Generation Policy By-law".

**Read a First and Second Time** this 9<sup>th</sup> day of August, 2023.

**Read a Third Time and Finally Passed** this 9<sup>th</sup> day of August, 2023.

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Mayor

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Clerk

**Policy No.:** FAC.01

**Section:** Your Livable Community

**Policy Title:** Advertising Revenue Generation

**Adopted Date:** August 9, 2023

**By-law No.:** 2023-117

**Revision Date:**

### 1. Purpose

The Advertising Revenue Generation Policy provides the framework for providing appropriate and effective guidelines for managing public advertising media and space while maximizing revenue opportunities and building resources to enhance the advancement of the Municipality of Kincardine.

The Municipality of Kincardine recognizes the sale of commercial advertising media and space as an appropriate revenue source to offset the costs of municipal business by supplementing user fees and reducing taxation. The desire for additional sources of revenue must be balanced with the Municipality's need to ensure that:

- There are no adverse effects on either public safety or on the Municipality's image;
- The advertising reflects corporate and community values, and;
- It does not conflict with Municipal policies on sponsorship, corporate naming rights, or other existing policies and bylaws.

### 2. Scope

The Municipality of Kincardine permits commercial advertising on Municipal property, at Community events and in Municipal publications under the conditions outlined in this policy. This policy applies to all paid advertising by individuals or corporations on Municipal property, at Municipal and Community events and in Municipal publications.

Where the Municipality has a relationship described in a formal agreement with another group/organization, the commercial advertising media and space considerations will be embedded in such agreements, to the satisfaction of the Director of Community Services or designate.

### 3. Definitions

**“Paid Advertising”** shall mean the sale to external businesses and organizations of advertising space on Municipally printed materials and Municipal property or events or in conjunction with a Municipal program. Unlike sponsorship, advertising sales involve the simple purchase of advertising space sold at rates determined or agreed to by the Municipality, for a specific period of time. The purchase of advertising space does not imply that the advertiser is entitled to any additional benefits from the Municipality other than those accruing from access to the space purchased;

**“Municipal Property”** shall mean all land, parkland, playfields, boulevards, buildings, vehicles, mobile signage, etc., owned and/or managed under a lease or license by the Municipality;

**“Municipal Publication”** shall mean any publication, including all media produced by or for the Municipality of Kincardine;

**“Municipal Event”** or **“Municipal Program”** shall mean any activity organized by Municipal staff and supported by a Municipal Department/Division or approved by Council;

**“Advertising Media and Space”** shall mean any advertising opportunity defined as being for sale by the Municipality to advertisers on a Municipal Property, in a Municipal Publication, at a Municipal Program or at a Municipal Event and is meant to encompass all possible advertising mediums in these contexts.

**“Pouring Rights”** shall mean a type of advertising in which a corporation, an organization or an individual purchases the exclusive right to supply and promote their beverages at a Municipal facility in exchange for significant cash and/ or other considerations over a long-term agreement;

**“Heritage Requirements”** shall mean those rules and regulations under which a property or portion of a property has been identified as having cultural heritage value to the community. These properties are identified within the Municipality of Kincardine’s Heritage Properties Register;

**“Environmental Protection Area”** shall mean municipally owned lands that are designated as Environmental Protection Areas (EPAs) by the Municipality’s Official Plan and associated zoning bylaws.

#### **4. Responsibility**

It is the responsibility of the Director of Community Services or their designate to oversee this Policy.

#### **5. Procedure/ Policy**

The Municipality will maintain control over the planning and delivery of advertising activities through the administration of all advertising contracts by the Director of Community Services or designate as well as review and approval by the Director of Community Services or designate of all terms relating to advertising in other contracts.

Advertisers will be required to ensure that all advertising proposals intended for use on Municipal property or in Municipal publications meet the following criteria as administered and approved by the Director of Community Services or designate:

- a) Advertising shall meet the standards set out by the Canadian Advertising Standards Council, [www.canadianadvertisingstandardscouncil](http://www.canadianadvertisingstandardscouncil.com) ; the freedoms of expression protected under The Charter of Rights and Freedoms; and the Municipality of Kincardine’s Branding Guidelines and Digital Assets.
- b) Advertising shall adhere to any Municipal bylaws or policies, for example, with regard to signage including those relating to heritage and business standards.
- c) Advertising must not impact the quality and integrity of the Municipality’s properties, buildings, or streetscape.
- d) Advertising on Municipal property must have no adverse affect on public safety and Municipal liability.
- e) The costs of all design, production, installation, maintenance and removal costs of advertising devices and remediation of sites will be the responsibility of the advertiser.
- f) Any proposal for advertising on Municipal Property must ensure advertising elements do not detract from the integrity of the landscape and is in keeping with the character of the property; do not conflict with existing or proposed objects within the right of way; and do not conflict with existing vehicular, pedestrian or cycling traffic.

##### **5.1. Legal Requirements**

The Municipal’s Department of Community Services is responsible for soliciting, negotiating and administering advertising agreements. Advertisers will be expected to enter into appropriate agreements with the Municipality, as approved by the Director of Community Services or designate, where necessary, and must meet the general requirements in this section and the site-specific requirements in the following section.

Agreements shall not in any way invoke future consideration, influence, or be perceived to influence the day-to-day business of the Municipality.

## **5.2. Restrictions on Advertising**

The Municipality will not allow advertising, either directly or through third party arrangements, that:

- a) Implies the endorsement by the Municipality of any one product or service over another.
- b) Includes the requirement or opportunity for a Municipal employee to receive any product, service or assets for personal gain or use.
- c) Conveys a negative message that might be deemed prejudicial to any religious group or belief;
- d) Promotes tobacco, alcohol and other addictive substances at venues geared primarily to children;
- e) Presents a discriminatory, demeaning or derogatory portrayal of individuals or groups or contain anything which, in light of generally prevailing community standards, is likely to cause deep or widespread offence.
- f) Has an impact on heritage property or changes the physical quality and integrity of heritage properties, buildings, or streetscapes.
- g) Impinges or encroaches on applicable heritage requirements.
- h) Conflicts with accepted Federal and Provincial public health policies and practices, such as the Health Protection and Promotion Act of Ontario, the Canada Food Guide, Canadian Children’s Food and Beverage Advertising Initiative.
- i) All political and other non-commercial expressive advertising will indicate that it is paid for by a party or candidate, so as to avoid any impression that the Municipality is supporting any particular party, candidate or point of view.
- j) Advertising that promotes cannabis, gambling and pornography will not be permitted.
- k) Is located on Municipal Property that is designated or zoned as Environmental Protection Area (EPA) unless:
  - i. The advertising is temporary and is associated with an event that takes place on the municipally owned EPA lands and that has been permitted by the municipality, or
  - ii. The advertising is attached to a municipally owned vehicle or other mobile asset that may pass by or through EPA lands as part of its normal operation.

Unsolicited advertising proposals received by the Municipality will be reviewed and evaluated by the Director of Community Services or designate as per the provisions of this policy and existing contractual obligations. The Municipality reserves the right to reject any unsolicited advertising opportunities that have been offered to the Municipality and to refuse to enter into agreements for any advertising that originally may have been openly solicited by the Municipality.

All advertising agreements shall be evaluated on an annual basis to determine continued benefit. The term of all agreements shall not exceed three years unless authorized by the Director of Community Services or designate.

The Municipality reserves the right to terminate an existing advertising agreement should conditions arise that make the agreement no longer in the best interests of the Municipality.

Any requests by outside advertisers or any other party to use the Municipality of Kincardine logo, coat of arms, corporate logo or any other symbols representing the Municipality in advertising, or any other media must be approved by the Communications Coordinator or designate. Use of the Municipality’s logo in combination with the advertiser logos will be in keeping with the Municipality of Kincardine’s Branding Guidelines and Digital Assets.

Complaints may be directed through the Municipality portal “Report A Concern” located <https://forms.kincardine.ca/Report-a-Concern>

## **6. Related Documents/Legislation**

**6.1.** The Canadian Code of Advertising Standards

**6.1.1.** [www.canadianadvertisingstandardscouncil](http://www.canadianadvertisingstandardscouncil)