



## BY-LAW

NO. 2024 –

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### Being a By-law to Adopt an Electronic Signatures 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** Council of The Corporation of the Municipality of Kincardine passed Policy GG.3.17 Electronic Signatures and desires to adopt a new Electronic Signatures Policy; now therefore be it

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

1. That the Electronic Signatures 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 Policy GG.3.17 – Electronic Signatures passed by Resolution #04/11/18 – 08 and Amended by Resolution #09/16/19 - 05 and all other Policies passed inconsistent with this By-law, be repealed.
4. That By-law may be cited as the “Electronic Signatures Policy By-law”.

**Read a First, Second and Third Time and Finally passed** this 6<sup>th</sup> day of March, 2024.

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Mayor

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Clerk

## **Schedule 'A'**

**Policy No.:**

**Section:** Your Government and People

**Policy Title:** Electronic Signatures Policy

**Adopted Date:** March 6, 2024

**By-law No.:** 2024 -

**Revision Date:**

### **1. Purpose**

The Municipality of Kincardine is committed to streamlining services to continue to provide excellent customer service. The use of Electronic Signatures expedites workflow processes and reduces Record keeping requirements.

The Electronic Signatures Policy provides for the framework for the use and acceptance of Electronic Signatures with the same force and effect as the Wet Signatures, wherever appropriate, unless specifically provided otherwise by applicable legislation or the Municipality's policies and procedures.

Appropriate uses will be determined in accordance with this Policy and include the Municipality's internal and external processes, as well as acceptance of externally generated Records which have been electronically signed.

### **2. Scope**

This policy applies to all Municipal employees, members of Council, contractors, and volunteers engaging in internal and external transactions involving signatures, which they conduct or in which they participate representing the Municipality.

It also applies to members of the public, consultants, vendors, and other persons, when they engage in electronic transactions with the Municipality.

This policy applies only to transactions between the Municipality and the other persons(s), each of which has agreed to conduct the transactions by electronic means, as well as internal electronic processes where Electronic Signatures are used.

### **3. Definitions**

"Electronic Record" means a Record created, generated, sent, communicated, received, or stored by electronic means.

"Electronic Signature" means electronic information that a person creates or adopts in order to sign a document and this in, attached to or associated with the document and has the same meaning as the Electronic Commerce Act, 2000, S.O. 2000, c.17 as amended from time to time.

"Electronic Submission" refers to a document identified in Appendix "A" submitted through electronic means including but not limited to email, web form, facsimile, external device (i.e., compact disc, hard disk, USB flash drive).

"Electronic Signature Method" or "Method" means symbols or other data in digital form included with an Electronic Submission as verification of the sender's intent to sign. Electronic Signatures include but are not limited to, a typed name at the end of an email, a typed name on an electronic form or document, an image of a handwritten signature on an Electronic Submission, a personal identification number (PIN); clicking "agree" or "disagree", a handwritten but digitally captured signature made on a touch device, such as a tablet or smartphone (sometimes referred to as a "dynamic signature") and a digital signature.

"Municipality" means The Corporation of the Municipality of Kincardine.

"Record" means information created, received, and maintained as evidence and information in the transaction of business or the pursuance of legal obligations.

"Wet Signature" means a signature made on the physical documents using physical means, for example, ink signature by hand.

#### **4. Responsibility**

The Manager of Legislative Services/Clerk shall maintain the primary responsibility for coordinating the implementation and maintenance of this Policy, as well as ensuring compliance with its requirements. They shall undertake periodic reviews of the Policy and is authorized to make administrative amendments to the Policy.

All employees, volunteers and Members of Council shall comply with this Policy when participating in or coordinating Municipal Electronic Signatures.

Directors, after consultation with the CAO and the Manager of Legislative Services/Clerk, if necessary, will make a decision in their department on using and accepting the Electronic Signature in a specific transaction.

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

##### **5.1. Recognition of Electronic Signatures and Exceptions**

The Municipality recognizes that Electronic Signatures are not to be denied legal effects, validity, or enforceability merely because they are in the electronic form. At the same time, this Policy does not affect the Municipality's ability to conduct transactions using Wet Signatures.

The Municipality will not allow the use and acceptance of an Electronic Signature, where the applicable legislation or Municipal policies prescribes the use of a Wet Signature.

##### **5.2. Consent**

A member of Council, or an officer or employee of the Municipality, that is authorized (by legislation, by-law, or policy) to sign or otherwise execute a document on behalf of the Municipality, may execute such document by Electronic Signature, subject to the conditions and restrictions set out in this Policy. This includes municipal by-laws and minutes.

Use of an Electronic Signature will only be with the consent of all parties (including consent of the Municipality, in accordance with this Policy and applicable procedures). The Municipality will not require other persons to use Electronic Signatures without their consent. When a Wet Signature is requested, the Municipality will consent to its use.

##### **5.3. Method**

This Policy does not mandate any specific Electronic Signature software, so long as the application adopted meets the requirements outlined in this Policy. Any Electronic Signature software must undergo a review by the Director of Corporate Services and the Manager of Legislative Services/Clerk, in consultation with Information Technology Services before it is adopted by the Municipality.

The method of Electronic Signature used in a transaction will be determined based on:

- the reason for or context of the signature;
- risks associated with the transaction and the Electronic Record it is documented by;
- legal requirements (including integrity and reliability);
- retention requirements of the Electronic Record being signed; and
- the ability of the method to validate the Electronic Signature throughout the retention period of the Electronic Record containing the Electronic Signature.

The Municipality shall not accept an Electronic Signature if the method used by the other person does not meet the requirements outlined in this Policy. The Manager of Legislative Services/Clerk, after consultation with the Director of Corporate Services and Information Technology Services, will establish whether the software meets these requirements.

#### **5.4. Minimum Functional Requirements**

For a technology or process to be accepted for the purposes of Electronic Signature, it must meet the following minimum requirements:

- The Electronic Signature must be executed or adopted by the signer with an intent to sign.
- The Electronic Signature must be unique to the signer.
- The use of the technology or process adopted by the signer to incorporate, attach, or associate the Electronic Signature to an electronic document is under the sole control of the signer.
- The technology or process can be used to identify the signer.
- The Electronic Signature must be linked to an electronic document in such a way that it can be determined whether the electronic document has been changed since the Electronic Signature was incorporated in, attached to, or associated with the electronic document.
- The continuing integrity of the Electronic Record, and its association or linkage to its Electronic Signature, and any associated data must be maintained, following the completion of the signing process.
- The Electronic Record with the Electronic Signature incorporated in, attached to, or associated with it must be capable of being received, accessed, and retained by the Municipality and any person who is entitled to have access to the document that was originally created, sent, or received, or who is authorized to require its production.
- The technology or process used must be able to include various supporting information (e.g., date and time associated with the signing transaction, origin, destination, etc.)

#### **5.5. Record Keeping Requirements**

Electronic Records with the Electronic Signature incorporated in, attached to, or associated with them shall be retained and disposed of in accordance with the Municipality's Retention By-Law.

Where Records containing Electronic Signatures are deemed vital, e.g., the Municipality's by-laws and minutes, they must be duplicated in the physical format (paper) to ensure business continuity and operations in case of an emergency.

#### **5.6. Rules and Regulations**

No person, through the transmission of an Electronic Submission bearing an Electronic Signature shall represent themselves in a way that is false or misleading. Where the Municipality believes such misrepresentation has occurred, the submission shall not be processed.

No routine acknowledgement of receipt from the Municipality is required in conjunction with an Electronic Submission. It is the sole responsibility of the person transmitting an Electronic Submission to ensure the submission is received.

In case of policy violation, the Municipality may investigate and determine appropriate corrective action.

### **6. Related Policies**

- By-law No. 2019-031 Record Retention By-law
- By-law No. 2023-112 Delegation of Powers and Duties (Signing Officers) By-law
- By-law No. 2016-048 Bank and Investments Signing Authority By-law

### **7. Related Documents/Legislation**

- Municipal Act, 2001, S.O. 2001, c. 25
- Electronic Commerce Act, 2000, S.O. 2000, c. 17