



BY-LAW

NO. 2022 - 010

BEING A BY-LAW TO AUTHORIZE THE SIGNING OF AN AGREEMENT WITH LAKESIDE RADIO BROADCASTING CORP. (CKSX STUDIOS) TO FACILITATE THE PLACEMENT OF ANTENNAS ON, AND A BACKUP GENERATOR AT THE WARD 1 WATER TOWER, MUNICIPALITY OF KINCARDINE

WHEREAS pursuant to the said *Municipal Act*, Section 8 (1) and 9 provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues and 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 with the passage of By-law No. 2006-038 the Council of the Corporation of the Municipality of Kincardine entered into an agreement with 1191827 Ontario Inc. (The Coast FM) to facilitate the placement of antennas on top of the Municipality of Kincardine Ward 1 Water Tower in order to accommodate radio broadcasts from the Municipality;

AND WHEREAS with the passage of By-law No. 2009-174 the Council of the Corporation of the Municipality of Kincardine assigned the said agreement formerly with 1191827 Ontario Inc. (The Coast FM) to 2079966 Ontario Limited (My Broadcasting Corporation);

AND WHEREAS with the passage of By-law No. 2015 – 037 the Council of the Corporation of the Municipality of Kincardine amended the said agreement with 2079966 Ontario Limited (My Broadcasting Corporation) to permit a backup generator at the said water tower;

AND WHEREAS with the sale of 2079966 Ontario Limited (My Broadcasting Corporation) it is being requested that a new agreement be entered into with the purchaser, known as Lakeside Radio Broadcasting Corp.;

NOW THEREFORE the Council of The Corporation of the Municipality of Kincardine **ENACTS** as follows:

1. That the Corporation of the Municipality of Kincardine enter into an agreement with Lakeside Radio Broadcasting Corp. to facilitate the placement of radio antennas on top of and a standby generator at the base of the Ward 1 Water Tower within the Municipality of Kincardine in consideration of rents, covenants and obligations as set out in the agreement.
2. That the Mayor and CAO be authorized and directed to execute, on behalf of The Corporation of the Municipality of Kincardine, the Agreement with Lakeside Radio Broadcasting Corp. attached hereto as Schedule "A" and forming part of this By-law.
3. That By-Law No. 2006 - 038, By-law 2009 -174 and By-law 2015 - 037 are hereby repealed.

4. This by-law shall come into full force and effect upon its final passage.
5. This by-law may be cited as the “Lakeside Radio Broadcasting Corp. (2022) Water Tower Agreement By-law”.

READ a FIRST and SECOND TIME this 17th day of January, 2022.

READ a THIRD TIME and FINALLY PASSED this 17th day of January, 2022.

Gerry Glover

Signed with ConsignO Cloud (2022/01/24)
Verify with verifio.com or Adobe Reader.



Mayor

Jennifer Lawrie

Signed with ConsignO Cloud (2022/01/24)
Verify with verifio.com or Adobe Reader.



Clerk

This Schedule "A" to By-law
No. 2022-010 passed the 17th day
of January 2022

This AGREEMENT made this 13 day of Jan 2021

BETWEEN:

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE
(hereinafter called "Kincardine")

And

Lakeside Radio Broadcasting Corp
CKXS Studios
C/O Greg Hetherington
520 James Street
Wallaceburg, Ontario
N8A 2N9
(hereinafter called the "Lakeside Radio")

WHEREAS:

- A. Kincardine owns and operates a water tower for the municipal water system in the town of Kincardine (the "Water Tower") on the property being;
 - i) Roll Number 41 08 220 003 10401, P 61 Pt Lots O & T P3R3680 part 3 RP 3R3885
- B. Lakeside Radio is in the commercial radio business, broadcasting from downtown Kincardine as far as Port Elgin in the North and Goderich to the South and wishes to place antennas on top of the Water Tower, and a backup generator at the base of the Water Tower to facilitate their services.

1. TERMINATION AT WILL

Either party may terminate this Agreement at any time upon the giving of 180 days notices of such termination. The notice shall be given by registered mail (in which case the 180 day period commences upon the date of mailing) to Kincardine at 1475 Concession 5, RR#5 Kincardine, Ontario N2Z 2X6 and to Lakeside radio at 520 James Street Wallaceburg, Ontario N8A 2N9. In the case of such personal delivery, the 180 notice period shall commence on the date of delivery.

2. LAKESIDE RADIO RIGHTS

- i) Lakeside Radio may have access at all reasonable times to and from the Water Tower, and may use up to 35 feet of space on the top of the Water Tower, to erect, hold and maintain the following equipment:
 - a) On the Kincardine Water Tower, Lakeside radio is permitted a 35 foot pole and 4 bay radio antenna. The gross weight for all necessary equipment shall not exceed more than 175 pounds on the Water Tower. Lakeside Radio further agrees to secure existing equipment at the Water Tower location to ensure the safety of Kincardine employees and Kincardine residents. All work is to be completed at no monetary cost to Kincardine.
 - b) Lakeside radio is permitted to use a building designated by the Director of Infrastructure and Development, at the base of the Water Tower for the purpose of housing necessary communications equipment and instrumentation to support their operations.
 - c) Lakeside Radio may further use a 1 metre x 4 metre space located inside the fenced area at the Water Tower in the south-east corner for a self-contained, air cooled, Propane fueled, 11-Kilowatt Generac generator for a standby power and the installation of buried cable from

the above noted generator to the auto transfer switch (approximate size is .5m x .5m) located in the Water Tower control building. The standby power package shall not interfere with any existing works and further Lakeside Radio is fully responsible for the fueling, operation, maintenance and testing to meet all applicable standards.

3. PAYMENT FOR HYDRO USE

Kincardine shall pay hydro use not to exceed more than \$50.00 annually at the Kincardine Water Tower, the balance is to be paid by Lakeside Radio.

4. LAKESIDE RADIO OBLIGATIONS

- i) Lakeside Radio shall provide the Municipality of Kincardine with the anticipated Radio Frequency (RF) Energy Levels and their locations and provide an assessment against the RF energy reference levels for Uncontrolled and Controlled Environments as outlined in Safety Code 6 (2015). RF Energy Levels should be provided and assessed for areas within 0-2m of water storage tower roof (i.e. occupational working height area). Should the anticipated RF Energy Levels exceed those stated in Safety Code 6 for Controlled Environments, Lakeside Radio shall be prepared to complete an output power reduction of the antenna whenever the Municipality of Kincardine has work scheduled within the vicinity of the antenna. Lakeside Radio shall be responsible for all direct and indirect costs associated with this power reduction and shall provide RF Energy Level monitoring while any work is completed within the vicinity of their antenna.
- ii) Lakeside radio agrees to pay \$2,000 per year plus annual Ontario CPI for the use of the Kincardine Water Tower, which will be placed into the Water Reserve Fund.

5. INTERFERENCE

Lakeside Radio shall not cause any interference to the broadcast or reception quality to any of Kincardine or other users of the Water Tower space as of the date of this agreement. If there is any interference to the broadcast or reception quality at any time of Kincardine, or any other licensee of space on the tower and Lakeside Radio cannot remedy it, as of the date of this agreement, then Kincardine may give notice as provided for above, or the immediate termination of this agreement to be effective upon the giving of the notice of termination.

6. ASSIGNABILITY

Lakeside Radio may not assign this agreement without the approval and consent of Kincardine.

7. OTHER TERMINATION

This agreement shall terminate immediately if the Water Tower becomes damaged, so as to make the continued use of the Water Tower impractical or impossible for the purposes of Lakeside Radio. Further, there shall be no obligation whatsoever upon Kincardine to effect repairs or to carry out maintenance on the Water Tower in order to make such use the Lakeside Radio practical or possible at anytime. Kincardine shall not be responsible for any damage or loss which may be incurred by Lakeside Radio due to such use being made or becoming impractical or possible.

8. OWN RISK

It is agreed and understood that Lakeside Radio's antenna(s), equipment and lines place on the Water Tower shall be there at the sole and only risk

of Lakeside Radio. Kincardine shall not be responsible for them in anyway, including the provisions of any security, whatsoever, with the exception only of willful and deliberate damage caused by employees of Kincardine.

9. REMOVAL

If this Agreement is terminated pursuant to the 180 days notice, and if Lakeside Radio has not removed its antenna(s), equipment and lines upon expiration of such notice, then any of the said items remaining on the property of Kincardine, shall be deemed abandoned and may be dealt with by Kincardine as it sees fit. If this agreement is terminated immediately, then Lakeside Radio shall have 30 days calculated from the day of such termination to effect such removal failing which any items remaining shall be deemed abandoned and may be dealt with by Kincardine as it sees fit.

10. REAL PROPERTY TAX IMPLICATIONS

In the event there are any municipal, county, or education tax implications arising as a result of the exercise of rights of Lakeside Radio under this Agreement, then any such burden shall be borne by and paid by Lakeside Radio either directly or by way of reimbursement to Kincardine.

11. LIABILITY

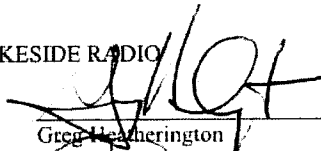
Lakeside Radio shall be liable for any damage to the Water Tower arising out of or in connection with its exercise of its rights under this Agreement. Kincardine shall not be liable to Lakeside Radio for any interference, or inconvenience caused by damage to any part of the Water Tower, or by repairs, alterations, improvement or construction to the Water Tower.


12. INSURANCE

During the term of this Agreement, Lakeside Radio shall provide and keep in force for the benefit of Kincardine, a general liability insurance in an amount of not less than \$5,000,000 in respect of injury to or death of any one person or property damage connected with the exercise of the rights of Lakeside Radio pursuant to this agreement.

IN WITNESS WHEREOF the parties hereto have signed under the hands of their proper officers duly authorized in that behalf.

LAKESIDE RADIO

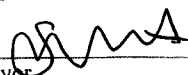


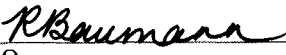
Greg Weatherington


Witness

I/We have the authority to bind the Corporation.

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE



Mayor


CAO

We have the authority to bind the Corporation.