

Corporate Policy and Procedure



Policy	Advertising Acceptability Policy
Category	Corporate
Authority	Strategic Communications and Community Engagement
Related Policies	N/A
Approved By	Executive Team
Effective Date	October 3, 2016
Revision Date	December 14, 2023

Policy statement

The City of Guelph (the “City”) acknowledges that commercial Advertising provides a financial benefit by way of the opportunity to offset the cost of City programs and services.

The City permits commercial Advertising on City property, at City events and in City publications under the conditions outlined in this Policy. This Policy applies to all paid or in-kind Advertising by individuals, businesses, and organizations on City property, at City events, and in City publications.

The objective of this Policy is to ensure that Advertising complies with all applicable laws and does not adversely affect public safety or the City’s corporate values.

The City’s acceptance of an Advertisement does not: (i) constitute an express or implied endorsement of the content or message of the Advertisement, including any person, company, organization, products, services, information, beliefs, or viewpoints it may contain, or of the Advertisement sponsor itself; (ii) represent or imply any partnership between the Advertiser and the City; and (iii) constitute information or communication by or on behalf of the City.

Purpose

The purpose of this Policy is to ensure that all Advertising, including Advertising administered by a contractor, is consistent with the Canadian Code of Advertising Standards, and consistent with the City’s corporate values, image and strategic goals and complies with all applicable law. Advertising opportunities shall be undertaken with a view to ensuring that Advertising on City property, at City programs and in City media are appropriate and meet specific criteria.

One such specific criteria that the City must meet is the determination of Advertising acceptability without unreasonable interference with rights guaranteed under the Canadian Charter of Rights and Freedoms (the "Charter").

This Policy also outlines and identifies the roles and responsibilities of staff in administering all Advertising in the City, including the process for reviewing Advertising decisions.

Definitions

Advertisement(s): Any paid or in-kind communication that is designed to influence, educate, or inform the public; and **Advertising** has a corresponding meaning.

Advertiser: The entity or person wishing to purchase Advertising space on City property, in City publications, or at a City event.

Advertising Review Panel (the "Panel"): the Panel reviews Advertising as requested under this Policy in accordance with the Panel's Terms of Reference (Schedule 1).

Advertising Standards Canada ("ASC"): The not-for-profit Canadian Advertising industry body established to create and maintain community confidence in Advertising and to ensure the integrity and viability of Advertising by way of industry self-regulation.

Canadian Code of Advertising Standards (the "Code"): The Advertising industry's principal instrument of Advertising self-regulation, administered by Advertising Standards Canada, which sets the criteria for acceptable Advertisements and forms the basis upon which Advertisements are evaluated in response to consumer, trade, or special interest group complaints.

Certified (English) translation: Certified translation consists of three parts: the source language (original) text; the target language (translated) text; and a statement signed by the translator or translation company representative with their signature notarized by a Notary Public, attesting that the translator or translation company representative believes the target language text to be an accurate and complete translation of the source language text.

City event or City program: Any activity or initiative organized by City staff and supported by a City department/division or approved by City Council.

City property: All City-owned and City-controlled properties and facilities, owned and/or managed under a lease or a license by the City, including, but not limited to: land; parkland; gardens; indoor and outdoor recreation and playfields; open space and boulevards; buildings and rooms; furniture, equipment, and fixtures; structures; vehicles, including buses and fleet vehicles; bus shelters; and mobile signage.

City publication or channel: Any publication or channel—print, digital, broadcast, or otherwise—such as media produced by or for the City, including those produced jointly by the City and other organizations.

Contractor: The entity that the City has engaged to sell and display Advertisements on City property, at City events, or in/on City publications and channels.

Panel: The Advertising Review Panel, as established by The City Executive Team, which is charged with the responsibility to review Advertisements as requested in accordance with the Terms of Reference in Schedule 1.

Policy application

1.0 Applicable laws

Advertisements must, as determined by the City in its sole discretion, comply with all legislation, regulations, and by-laws applicable in the Province of Ontario including, but not limited to:

- Human Rights Code (Ontario)
- Canadian Charter of Rights and Freedoms
- Criminal Code (Canada)
- Advertising regulations in
 - Cannabis Act (Canada)
 - Tobacco and Vaping Products Act (Canada)
 - Food and Drugs Act (Canada)

2.0 Criteria for acceptance of Advertisements

Advertisements will be permitted on City property, at City events, and in/on City publications and channels following an assessment by the City based on the following criteria, the determination of which is in the sole discretion of the City.

2.1 The Advertisement complies with the criteria set out in the Code, available at adstandards.ca, and:

- (i) is not misleading or a false representation;
- (ii) does not contain inappropriate content or language;
- (iii) does not adversely affect public safety;
- (iv) does not incite violence or hatred;
- (v) is not offensive in style, content, or method of presentation;
- (vi) does not mimic City of Guelph style or content;
- (vii) features a name or other content (e.g., a company URL) that identifies the Advertiser; and
- (viii) is appropriate in the context of the proposed display location (e.g., a playground versus the Sleeman Centre).

2.2 Advertisements that convey information about a meeting, gathering, or event, must include the name of the Advertiser.

2.3 Advertisements that: (a) promote or oppose a specific theology or religious or ethnic point of view, policy, or action; (b) advocate or oppose any ideology or political philosophy, point of view, policy, or action; or (c) convey information about a political party or the candidacy of any person for a political position or public office, must visibly display the name of the Advertiser.

2.4 Advertising must be appropriate to an all-ages audience and must not contain content which is restricted by law to persons over a minimum age.

2.5 Advertisements promoting any tobacco, vaping, or cannabis company, product, or brand, including sponsorship or promotion of cultural or sporting events, will not be accepted.

- 2.6 Advertisements for or which make claims about drugs and therapeutic products as those terms are defined in and regulated by the *Food and Drugs Act* (Canada) will not be accepted except where expressly authorized for publication by an advertising preclearance agency approved by Health Canada.
- 2.7 Requests for placement of Advertisements in any language other than English or French must be accompanied by a Certified (English) translation of the Advertisement content to ensure compliance with this Policy.
- 2.8 When required by the City, an Advertisement shall include the following disclaimer in a manner that is legible and meets all visual requirements of the Accessibility for Ontarians with Disabilities Act, 2005 (e.g., adequate contrast, use of sentence case, sans serif font of a size in keeping with the size of other text on the Advertisement, no italics): "The opinions expressed in this advertisement or by the sponsor of this advertisement do not in any way represent the opinions of and are not endorsed by the City of Guelph."

3.0 Permission to use City of Guelph logo or other City-owned logos

Any requests by outside Advertisers or any other party to use the City's logo, any of its subsidiary logos, the City crest or any other symbols representing the City in Advertising, or any other media, must be approved by the General Manager, Strategic Communications and Community Engagement or designate.

4.0 Reconsiderations

By the City at its own Initiative

- 4.1 Notwithstanding that the City has not refused approval of Advertising prior to its display, the City may subsequently, after display of the Advertising has begun, require immediate (*i.e.*, within 24 hours) removal of the Advertising if the City determines (by decision of the Panel or otherwise) that it does not comply with the provisions of this Policy.
- 4.2 If the Advertiser or Contractor fails to remove the Advertising from display immediately (within 24 hours) after receiving the City's requirement to do so, the City itself may remove the Advertising from display.
- 4.3 The removal of Advertising from display on the ground of reconsideration by the City shall be at the sole cost of the Advertiser or Contractor, and the City shall not be liable in any way for any consequences of its requirement for the Advertiser or Contractor to remove the Advertising from display or of its own removal of the Advertising from display.

By an Advertiser

- 4.4 An Advertiser who disagrees with the refusal of Advertising by the City in accordance with section 2, or its removal in accordance with section 4.1 of this Policy, may within 5 business days of notice of the refusal or removal of the Advertising, request that the Panel review its acceptability in accordance with the Terms of Reference set out in Schedule 1.

By a Public Complainant

- 4.5 Any person who objects to any Advertisement governed by this Policy may file a complaint with ASC, following its prescribed process at www.adstandards.com.

In the event that ASC finds that the Advertisement is in violation of the Code, the complainant is entitled within five business days of receiving the decision to request that the Panel examine the Advertisement, the ASC decision, and consider any submissions of the Advertiser with respect thereto.

Responsibilities

City departments are responsible for soliciting, negotiating, and administering their own Advertising agreements.

Staff approving Advertising proposals must ensure all relevant by-laws and policies are adhered to, appropriate consultation and approval authorities are respected and, where applicable, that insurance, indemnification, and permits have been obtained.

In cases where a City employee or Contractor is unsure of whether an Advertisement complies with the criteria for acceptability outlined in this Policy, they must contact Strategic Communications and Community Engagement, who may solicit input from other departments in the organization such as Legal Services. In appropriate cases, a review of the proposed Advertising by the Panel may be solicited in accordance with section

City departments are responsible for ensuring that Contractors abide by this Policy.

Advertising Review

Requests for reviews related to Advertising at the City will be directed to the Panel (Schedule 1). As noted in section 4, the Panel will review Advertising when:

- City staff have declined an Advertising submission, and the Advertiser requests a review of the decision;
- City staff elect to refer Advertising to the Panel for an opinion as to whether it meets the Policy;
- A member of the public has submitted a complaint to Advertising Standards Canada in accordance with section 4, and Advertising Standards Canada has returned an opinion that the Advertising does not comply with the Code; or

At the conclusion of the review process, the Panel will:

- Approve the Advertising as submitted; or
- Not approve the Advertising.

The decisions of the Panel will be final and binding. If the Panel does not reach a decision on an Advertisement that is submitted for review within the timeframe prescribed in the Panel's Terms of Reference, the decision or recommendation of City staff, as applicable, will continue to apply.

Schedule 1

City of Guelph – Advertising Review Panel

Terms of Reference

1. Background

The City of Guelph Advertising Review Panel shall be established and authorized effective the publication date of the revised Advertising Acceptability Policy. On request, and at its discretion, the Panel may reconsider Advertising submitted prior to the effective date of the policy which would otherwise fall within the scope of review of the Panel.

2. Scope and Purpose

The purpose of the Panel is to review Advertising as requested under the City's Advertising Acceptability Policy, as may be amended from time to time. All reviews will be conducted in accordance with these Terms of Reference and all decisions of the Panel will be final and binding.

3. Definitions

Any terms that are not specifically defined in these Terms of Reference shall have the meaning that has been ascribed to them in the Policy.

"Advertiser" means the entity or person wishing to purchase Advertising space on City property, in City publications, or at a City event.

"Advertising Decision" means the decision of City staff with respect to a request to place Advertising on City property under the Policy.

"ASC" means Advertising Standards Canada and in the context of a decision of the Panel, refers to a committee struck by Advertising Standards Canada to make a determination of a consumer complaint in accordance with the published process of that body.

"Business Day" means Monday to Friday, inclusive, except statutory or civic holidays observed by the City and any day on which the staff administrative offices of the City are closed.

"Chair" means the Deputy Chief Administrative Officer, Corporate Services or other Panel Member appointed by the DCAO, Corporate Services to serve as chair of the Panel in the event of a conflict of interest or the absence of the DCAO, Corporate Services.

"Child" has the meaning ascribed to it in the Municipal Conflict of Interest Act, as amended (the "MClA").

"Conflict of Interest" means a conflict of interest due to: (i) an interest declared under the provisions of the MClA; (ii) the Member or the Parent, Spouse or any Child of the Member being the subject of or referred to in the Advertising;

or (iii) the Advertising in question belonging to a Member or the Parent, Spouse or any Child of the Member.

"City" means The Corporation of the City of Guelph.

"Member(s)" means each or any of the following:

- The Deputy Chief Administrative Officer, Corporate Services
- The General Manager of Strategic Communications and Community Engagement
- The General Manager of Guelph Transit
- The General Manager of Economic Development and Tourism
- The General Manager of Culture and Recreation

"Panel" means the City's Advertising Review Panel.

"Panel Coordinator" means the member of City staff who has been assigned to perform the administrative tasks required by the Panel, on behalf of the Chair.

"Parent" has the meaning ascribed to it in the MCIA.

"Party(ies)" includes the Advertiser who has been served with an Advertising Decision by the City, a representative of a City department which has recommended refusal of Advertising or which is seeking a determination by the Panel of the acceptability of Advertising in accordance with the Policy, and any person who has obtained a decision of ASC in respect of Advertising which they bring forward to be reviewed/under review by the Panel.

"Policy" means the City's Advertising Acceptability Policy.

"Request for Review" means a written notice requesting that the Panel review an Advertising Decision or Advertising, as applicable.

"Spouse" has the meaning ascribed to it in the MCIA.

4. General

These Terms of Reference apply to all reviews conducted by the Panel.

5. Composition

The Panel shall be composed of the following members of the City's management and Executive Team:

- The Deputy Chief Administrative Officer of Corporate Services, who shall serve as Chair
- The General Manager of Strategic Communications and Community Engagement
- The General Manager of Guelph Transit
- The General Manager of Culture and Recreation
- The General Manager of Economic Development and Tourism

6. Term

All Panel Members serve *ex officio*, and an employee serving in an acting capacity may serve as a Panel member.

7. Meetings of the Panel

Three (3) Members constitutes a quorum at meetings of the Panel.

If no quorum is present 30 minutes after the time appointed for the commencement of a meeting, the Panel Coordinator shall re-schedule the meeting.

When the number of Members who refrain from participating in debate of a matter, or voting by reason of having declared a Conflict of Interest, leaves a remaining number of Members that does not constitute quorum, the remaining Members will be deemed to constitute quorum, provided that not less than two (2) Members remain present to continue the meeting.

8. Chair and Duties of the Chair

- The Chair shall preside at any meeting of the Panel and may vote.
- The Chair of the Panel shall call the meeting to order.
- The Chair of the Panel shall enforce the observance of order and decorum during meetings.

9. Requests for Review by the Panel

- 9.1 An Advertiser who requests review of an Advertising Decision must submit a Request for Review to the City staff person who issued the Advertising Decision within five (5) Business Days of receiving the Advertising Decision.
1. The Request for Review shall include a copy of the Advertising Decision, a statement setting out the grounds for the review, a copy of the Advertising and the name, telephone number and address for service of the Advertiser.
 2. The City's staff person who receives the Request for Review will then forward such Request for Review, all accompanying documents and the reasons for the Advertising Decision to the Panel Coordinator.
- 9.2 A member of the public, having obtained a decision of ASC which finds that Advertising is in contravention of the Code and which requests that the Panel action that decision must submit his/her Request for Review to the Panel Coordinator.
1. The Request for Review shall include a picture/copy of the Advertising, the location of the Advertising, the grounds for requesting the review and the name, telephone number and address for service of the person requesting the review, and all correspondence with ASC in respect of the complaint.
 2. A Request for Review made under this section 10.2 shall only be considered by the Panel upon receipt by the Panel Coordinator of the materials listed above.

- 9.3 A representative of a City department which requests the Panel to provide a determination in respect of the compliance of proposed Advertising with the Policy must submit their Request for Review to the Panel Coordinator.
1. The Request for Review shall include a copy of the Advertising, the reasons why the City staff person wants a review of the Advertising and a recommendation as to whether the Advertising should be approved or disapproved.
- 9.4 A Request for Review under sections 9.1 and 9.2 shall be transmitted by:
1. personal delivery;
 2. regular or registered mail;
 3. courier; or
 4. e-mail.
- 9.5 A Request for Review under sections 9.3 shall be transmitted by:
1. personal delivery;
 2. inter-office mail; or
 3. e-mail.
- 9.6 Upon receiving a Request for Review and all required accompanying documents, the Panel Coordinator shall forward the Request for Review along with the accompanying Advertising to the appropriate staff via e-mail.
- Upon receiving the Request for Review from the Panel Coordinator, appropriate staff shall: (i) promptly advise the Advertiser that the Advertising will be sent to the Panel for review; and (ii) provide the Panel Coordinator with the grounds for the Advertising Decision within three (3) Business Days via e-mail.
- 9.7 When the Panel Coordinator has all relevant documents relating to the Request for Review, an e-mail requesting that the Panel review the Advertising and/or Advertising Decision(s) shall be forwarded to the Panel. The e-mail shall include:
1. a copy of the Policy; and
 2. a copy of the Request(s) for Review and the accompanying Advertising.

10. Advertising Review Procedures

- 10.1 Meetings of the Panel shall be organized by the Panel Coordinator, shall be open to the public, and may be held either in person, electronically or by a hybrid of both.
- 10.2 Notice of the time and place of the meeting will be communicated to the Panel members and to the Parties at least ten (10) business days prior to the meeting.
- 10.3 Any Party may elect to attend the Panel meeting in person or virtually, or to submit their position to the Panel in writing. A Party requesting personal or virtual attendance shall communicate this request to the Panel

Coordinator in writing via email at least two (2) business days before the Panel meeting, including the name(s) of the representative(s) speaking to the issue and shall indicate whether any of the representative(s) are legal counsel to the Party. Any written submissions beyond those set out in the Request for Review shall also be transmitted by each Party at least two (2) business days before the Panel meets to ensure that the Panel has the opportunity to review those materials. Written submissions shall be no more than fifteen (15) pages in length. Cases and other references may be linked to the submission.

- 10.4 The Panel shall hear from each Party electing to appear in person for no more than ten (10) minutes. Following a Party's presentation, members of the Panel may ask questions for clarification.
- 10.5 Following Party presentations, the Panel may deliberate in closed session as required to consider all oral and written submissions and will follow the relevant procedure as set out below to reach a decision on the question before the Panel.
- 10.6 Voting by consensus will be used for decisions of the Panel or a majority vote by Members, usually performed by a show of hands.
- 10.7 If the vote by the Panel results in a tie, the original Advertising Decision or the recommendation of City staff (as applicable) will apply to the Advertising.
- 10.8 Meetings of the Panel will be governed by Roberts Rules of Order, as required.
- 10.9 The decision of the Panel to approve or disapprove the Advertising that is the subject of a meeting, and brief written reasons for the decision, will be communicated by the Chair to the Panel Coordinator.
- 10.10 The Panel Coordinator will forward the decision of the Panel to the applicable City staff and all Parties involved in the review of the Advertising or Advertising Decision.
- 10.11 A decision of the Panel is final and binding. Brief reasons for the decision will be communicated in writing by the Panel to the complainant/staff department as applicable within 21 days of the Panel's decision.