



# SMITHS FALLS

RISE AT THE FALLS

APPENDIX A

POLICY

(APPENDIX A TO BY 10095-2019)

**Subject: Municipal Corporate Sponsorship, Advertisement and Donations Policy**

Date of Adoption: November 18, 2019

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### 1. LEGISLATIVE AUTHORITY

Town Council has the legislated authority under section 224 of the Municipal Act (the Act) to develop and evaluate policies of the municipality and ensure that practices and procedures are in place to implement these policies.

### 2. DEFINITIONS

**“Advertising”:** The selling or leasing of advertising space on corporate materials (printed and electronic), and signage on Town-owned assets and properties; whereby the advertiser is not entitled to any additional benefits beyond access to the space purchased. Advertising is a straightforward purchase of space based on pre-established base rates and a defined period of time.



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**“Advantage”**: An advantage is the total value, at the time the donation is made, of all property, services, compensation, or other benefits that a person is entitled to receive in relation to the donation. The advantage may be conditional or receivable in the future, either by the donor or a person or partnership not dealing at arm’s length with the donor.

**“Arm’s Length”**: The term “at arm’s length” describes a relationship where persons act independently of each other or who are not related. The term “not at arm’s length” means persons acting in concert without separate interests or who are related.

**“Asset”**: A physical or non-physical Town-owned element, material, equipment, facility, building, or structure. Examples of assets are: vehicles, programs, services, publications, websites, events, arenas, playgrounds, parks, pools, advertisement placements and speaking engagements.

**“Council”**: The Council of the Corporation of the Town of Smiths Falls

**“CRA”**: Canada Revenue Agency

**“Donation/Gift”**: means a voluntary transfer of tangible property, including cash, or a transfer in-kind of tangible property, other than cash. The donation has to be valued at Fair Market Value and the net amount of a donation is calculated from this value less any advantage or benefit received or to be received as a result of the donation. A donation tax receipt may be issued. Donations do not involve a business relationship and are distinct from sponsorship and/or advertising initiatives.

**“Donation in Kind”**: also known as non-cash gifts, are gifts of property. They cover items such as artwork, equipment, securities, and cultural and ecological property and real property. A contribution of services is not property and therefore does not qualify as a gift or gift in kind for purposes of issuing donation tax receipts.

**“Eligible Donee”**: an organization that under the Income Tax Act may issue official donation income tax receipts for donations.

**“Fair Market Value”**: Is usually the highest dollar value you can get for your property in an open and unrestricted market and between a willing buyer and a willing seller who are knowledgeable, informed, and acting independently of each other.

**“In-Kind”**: is a sponsorship received in the form of goods and/or services rather than cash. \*See **Donations in Kind**



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**“Naming Rights”**: An exclusive right of third-party sponsorship to name an asset or venue for a fixed period of time in exchange for cash and/or other considerations under a long-term agreement.

**“Sponsorship”**: A mutually beneficial business arrangement between the Town and an external party. An agreement is made for the external party to provide cash and/or in-kind goods and/or services to the Town in return for access to the commercial marketing potential associated, including naming rights, with a Town asset, facility, program, service or event.

**“Termination Clause”**: a provision that ends or repeals all or portions of an agreement after a specific date, unless the contract is renewed in order to extend the agreement.

**“Town”**: means the Corporation of the Town of Smiths Falls

### 3. PURPOSE

The purpose of this policy is to provide clear and transparent guidelines to Council, staff and the public about the corporate sponsorship, advertisement and/or donation process where the Town is the recipient of the funds or in-kind sponsorship/donation. This guidance includes:

- Eligibility criteria, restrictions, agreement components and termination clause;
- The circumstances when the Town will enter into a sponsorship or advertising agreement and/or accept a donation;
- Ensuring that the goals of the Town and the sponsor, advertiser, and/or donor are mutually beneficial, align with public interests and the strategic priorities of Council;
- Avoidance of actual, or the appearance of, conflict of interest;
- Guidance on how to respond to unsolicited sponsorship/advertising requests or donations;
- Protecting the integrity of municipal assets, programs, services and/or events; and
- Eligibility for official donation tax receipts according to the Income Tax Act and the regulation of the CRA.

### 4. APPLICATION AND SCOPE

4.1 This policy shall apply to all sponsorship, advertising and donation agreements, financial or in-kind, with an external company, organization, association or individual wherein the Town is the recipient. This policy is subject to the restrictions in the Municipal Act, 2001 on bonusing.

4.2 This policy shall apply across Town departments and committees of council.



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- 4.3 This policy shall apply to solicited and non-solicited sponsorships, advertisements and donations.
- 4.4 Any proposal which varies from the eligibility requirements of this policy shall be subject to approval by Town Council.
- 4.5 This policy shall not apply to:
- a) Instances when the Town is the sponsor, advertiser or donor as it is intended to be used when the Town is the recipient;
  - b) Grants received from federal or provincial governments, foundations, trusts, etc;
  - c) Sponsorship, advertisements and/or donations that pre-date this policy (renewals will be dealt with through this policy);
  - d) Donations received, or fundraising initiatives, by Town staff on behalf of an outside organization;
  - e) Donations of land and buildings;
  - f) Town financial support of external projects where the Town may provide funds to an outside organization;
  - g) Sales of expertise, software, property, intellectual property and services, or other more complex public/private relationships involving the delivery of direct service;
  - h) Fees charged, purchase of service agreements, leasing of property, or similar revenue earned by the Town;
  - i) Independent foundations or registered charitable organizations that the Town may receive a benefit;
  - j) Neighbourhood groups, service clubs, non-profit community organizations, or agencies that provide continuous support and leadership to Town programs, services, or facilities; and
  - k) Town facilities that have been contracted to a third party for operation and/or management.

## **5. GUIDING PRINCIPLES:**

The following principles shall be considered when deciding on whether to enter into a sponsorship or advertising agreement, or accept a donation from an external party.

### **5.1 Decision-Making**

- a) All sponsorship, advertisement and donation agreements, acknowledgements and recognition must comply with federal and provincial acts, statutes and regulations and municipal by-laws, policies and procedures and the standards set out by the Canadian Advertising Standards Council and must not interfere with existing contractual obligations of the Town.



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- b) All sponsorship, advertisement and donation agreements must align and not compromise, influence or alter the corporate goals and priorities of the Town, or in any way diminish the Town's public image or reflect negatively on the municipality.
- c) The relationship must benefit the Town and should benefit the other party.
- d) All sponsorships, advertisements and donations should enhance the development, delivery, awareness or continuance of one or more Town programs, services, events or facilities.
- e) Sponsorships and donations must not create an ongoing financial obligation for the Town.
- f) The sponsorship, advertisement or donation should not cause unplanned operational or capital expenditure or significant administrative burden and will only be accepted if the Town has the capacity to meet the initial and ongoing associated costs and obligations.
- g) The sponsorship, advertising or donation agreement cannot cause a municipal employee or elected official to receive any product, service, or asset for personal use or gain, either directly or indirectly.
- h) Sponsorship, advertising or donation agreements shall not in any way invoke future considerations, influence, or be perceived to influence the day-to-day business of the Town.
- i) Donations must not accrue any net advantage to the donor or to any person not dealing at arm's length to the donor as a result of the donation.
- j) A donation or sponsorship cannot be used to influence the outcome of an outstanding approval, permit or license application or award of a procurement call. A donor or sponsor must advise the Town in writing if they, their organization or company is currently involved in a planning approval or procurement process with the Town or one of its agencies, boards and commissions (see Section 8).
- k) Advertising devices must not impact the quality and integrity of any Town property and/or asset and provide no added risks to safety, as determined by the Town.
- l) The Town should not enter into any sponsorship agreements including naming rights with companies that are a direct competitor of the municipality or its enterprises.
- m) The sponsorship, advertisement or donation must not directly compete with charitable organizations.

### 5.2 Operational

- a) The Town will maintain control over the planning and delivery of all sponsorship, advertising and donation agreements and activities.
- b) The act of making a donation to the Town does not constitute a partnership, business venture or agency relationship.
- c) The Town will retain ownership and control over any sponsored property/asset and/or donated property or funds.



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- d) The sponsorship, advertising or donation agreement must be valued at fair market value and be in accordance with the industry practices, using recognized valuation models and standard practices.
- e) The sponsorship, advertisement, or donation agreement must not imply endorsement of the company or its products, services or ideas and must not allow sponsors, advertisers or donors to make statements which suggest endorsement by the Town.
- f) There shall be no actual or implied obligation to purchase the product(s) or services of the sponsor, advertiser, or donor.
- g) Subject to the agreement, proceeds received from a sponsorship or donation in respect of a property or service shall be applied to the property or service intended.
- h) Official donation tax receipts shall be issued by the Treasurer, or designate, only in accordance with the Income Tax Act and the policies of the Canada Revenue Agency.
- i) All donations made to the Town and its agencies must be given unconditionally and voluntarily without any expectation of a net advantage.
- j) The value of the proposed sponsorship or advertising is consistent with the proposed recognition or acknowledgement.

### **6. RESTRICTIONS:**

- 6.1 The Town reserves the right to restrict sponsorships, advertising and/or donations to certain areas/programs of the municipality and to exclude any products and industries at its discretion.
- 6.2 Sponsorships, advertising and donations will not be accepted from any party that portrays, promotes, or condones the stereotyping of any group or discrimination as defined in the Ontario Human Rights Code and the Charter of Canadian Rights and Freedoms.
- 6.3 Sponsorship, advertisements and donations will not be accepted from individuals or corporations currently not in good standing with the municipality (i.e., violation of by-law, under litigation, or in arrears).
- 6.4 The Town, in its sole and absolute discretion may decline a sponsor, advertisement or donation from anyone who, in the opinion of Council, or Town staff represents a reputational risk to the Town through involvement in activities that are contrary to the core values of the Town and/or whose business is derived from:
  - a) Pornography, adult entertainment and/or sexual services;
  - b) The production or sale of tobacco products;
  - c) The support of/involvement in the production, distribution, and sale of weapons and other life-threatening products;



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- d) Promotes religious or political views that might be deemed prejudicial to other religious or political groups or incite violence or hatred; and/or;
- e) Represents political endorsement of a party, elected representative or candidate from any level of government.

### **7. SPONSORSHIP, ADVERTISING AND DONATION AGREEMENTS:**

7.1 All sponsorship advertising and donation agreements must be confirmed in writing and all details must be finalized at the time of signing by authorized representatives of both the Town and the other party.

7.2 Multiple year sponsorship, advertising and donation agreements shall be evaluated on an annual basis to determine continued benefit. The Town reserves the right to terminate an existing agreement, should conditions arise that make it no longer in the best interests of the Town.

7.3 All sponsorship, advertising and donation agreements must outline the following:

- a) The identity of all the parties in the arrangement;
- b) A declaration of any, or apparent, conflict(s) of interest;
- c) Any contribution by the sponsor, advertiser or donor and the value of the contribution;
- d) The form(s) of recognition available to the sponsor, advertiser or donor;
- e) Details of the exchange of benefits and/or recognition, including what the Town will receive, and what benefits are to be provided to the other party
- f) Terms of payment;
- g) Responsibilities of the Town and the sponsor, advertiser or donor including: insurance coverage, permits, maintenance, replacement, removal from and remediation to the site, taxes of all assets, security, safety and other risk management issues;
- h) The duration of the agreement and delivery dates (start and end);
- i) A termination clause that outlines the conditions for termination and remedies available to both parties upon cancellation;
- j) The disposition and ownership of any assets resulting from the sponsorship, advertisement or donation;
- k) The licensing and use of the Town's and other party's name, trade, service marks, and other intellectual property, and any costs associated with such licensing or use;
- l) A statement acknowledging that the sponsorship, advertisement or donation agreement may be subject to provisions of the Municipal Freedom of Information and Protection of Privacy Act; and
- m) A waiver of liability and an indemnity clause for damages or losses incurred by the Town.



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### **8. DECLARATION OF CONFLICT OF INTEREST:**

8.1 Potential donors and sponsors will be requested to declare no conflict of interest.

8.2 Donations and sponsorships will not be accepted from persons who have a concurrent application for a permit or license from the Town or an application for planning approval from the Town, or from persons who are bidding for a contract from the Town through a procurement process.

### **9. SPONSORSHIP AND ADVERTISING SOLICITATION:**

9.1 Sponsorship and advertising opportunities will arise from; unsolicited proposals, direct solicitation, or a competitive process.

9.2 In order to expedite partnership development, a competitive process is not necessarily required when soliciting sponsorship or advertisement opportunities.

9.3 Sponsorship and advertising shall be offered by the Town or its agents on a first come, first served basis which meets established valuation criteria.

9.4 The Town reserves the right to reject any and all sponsorship or advertisement opportunities.

9.5 As part of due diligence, staff authorized to approve sponsorship proposals must ensure that all relevant by-laws and policies are adhered to, appropriate consultation takes place with relevant stakeholders and approval authorities are respected. Where necessary, a risk/benefit analysis of the opportunity shall be conducted.

### **10. SPONSORSHIP AND ADVERTISING FEE FRAMEWORK:**

10.1 Internal fees are established for sponsorship and advertising assets using a market-based approach combined with key metrics including visibility, number of impressions, level of exposure, etc.

10.2 All negotiation of rates with potential external sponsors and advertisers are completed through equal application of this framework in addition to the Town's Fees and Charges Bylaw.

### **11. SPONSORSHIP RECOGNITION:**

11.1 Sponsor recognition can take many forms, including but not limited to:

- a) Signage (with or without logo recognition);
- b) Web site presence (with or without links and/or logo recognition);
- c) Name/logo recognition on activity advertising or promotional materials, either printed and/or media related;
- d) On-site representation or exclusive vending (where appropriate); and/or
- e) Naming Rights (see Section 13)





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- 11.2 Recognition must be relative to the scale of the participant's contribution and will be done in a manner designed not to detract from the attributes of the activity or service delivery.
- 11.3 Recognition must comply with the Town's visual identity and logo policies, if application.

### **12. SPONSORSHIP AND ADVERTISING APPROVAL DELEGATION OF AUTHORITY:**

- 12.1 Sponsorship and advertisement agreements may be executed by the following Town staff, based on the following amounts:
  - a) \$0.00 - \$5,000- Chief Administrative Officer or designate; and
  - b) \$5,001 and over – Recommendation of Council
- 12.2 Multi-year sponsorships/advertisements will be assessed by the total value of the sponsorship/advertisement for the entire term of the agreement and will be subject to the terms set out in this policy.
- 12.3 Where there is a competition for a limited sponsorship or advertisement opportunity, staff will seek to make the best match, based on the criteria set out in this policy.

### **13. NAMING RIGHTS:**

- 13.1 The following guidelines are to be read in conjunction with BY-LAW No. 8982-2017: Municipal Facility & Asset Naming Policy
- 13.2 Sponsorship naming rights are not necessarily available for all Town properties. Council will provide advanced approval of those properties which are open for commercial naming and reserve its right for commemorative or historical naming of Town assets as per BY-LAW No. 89.82-2017;
- 13.3 While the physical display of the naming right shall be negotiated or decided upon on an individual basis, such recognition must not unduly detract from the character, integrity, aesthetic quality, or safety of the property or unreasonably interfere with its enjoyment or use.
- 13.4 As is outlined in BY-LAW No. 8982-2017, Council approval is required for all names associated with Major facilities. Naming rights agreements cannot be extended or automatically renewed without Council approval.
- 13.5 The Town will consider naming rights for Town-owned facilities when there is a revenue opportunity for the Town and where the proposed naming does not detract from the description or proposed use of the facility.



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13.6 The cost and impact of changing existing signage and rebuilding community recognition must be considered before a property is renamed and any Town costs shall be incorporated into the naming rights agreement and not the Town's annual operating or capital budget.

13.7 The costs for promotion of the renaming of a facility shall be incorporated into the naming rights agreement.

### **14. DONATION ACCEPTANCE DELEGATION OF AUTHORITY:**

14.1 Authority for acceptance or denial of monetary or in-kind donations is as follows:

- a) \$0.00 - \$5,000 – Chief Administrative Officer or designate; and
- b) \$5,001 and over – Recommendation of Council.

14.2 All donations in kind will be made subject to a formal offer and review process.

14.3 In addition to the criteria listed in sections 5 and 6 of this policy, the following considerations will be made when considering the acceptance of a donation in kind:

- a) Usefulness of the donation;
- b) Condition and value of the donation;
- c) Future cost/benefit/risk evaluation under consideration of available financial resources required for installation, storage, maintenance and other relevant costs such as insurance; and
- d) Availability for full and unencumbered transfer of ownership/title, and a donor release to allow for such a transfer of title.

14.4 The Town may retain an in-kind donation or sell the asset and apply the proceeds as necessary, unless formally requested otherwise by the donor at the time of donation.

14.5 Donors who wish to make donations that support special purposes to be provided by an organization independent of the Town should be directed, where possible, to the intended organization.

### **15. DESIGNATED DONATIONS:**

15.1 A donor cannot choose a specific beneficiary for their donation or ask the Town to give the donation to another non-qualified donee.

15.2 A donor can ask that their donation be used in a particular Town program or service as long as there is no net advantage to the donor or anyone not at arm's length to the donor.



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15.3 The Town must be able to use the donation within the particular program or service as it sees fit.

15.4 Designated donations received in excess of the specific program requirements will be taken into the Town's operating surplus unless otherwise specified. The Treasurer will have the authority to establish a specific reserve for designated donations as and when required.

### **16. DONATIONS ELIGIBLE FOR AN OFFICIAL DONATION TAX RECEIPT:**

16.1 Sponsorship and advertising agreements are business arrangements and do not qualify for official donation income tax receipts under the Income Tax Act.

16.2 To be eligible for an official tax receipt, the donation has to:

- a) Be made payable to the Town;
- b) Be a transfer of property - in cash or in-kind donated goods (not labour/services);
- c) Be voluntary – freely given and not as a result of a contractual or legal obligation; and
- d) Be at least \$20.00.

16.3 Only the Eligible Amount of a donation may be recorded on a donation receipt. If the donor receives any property, service or other advantage in consideration of the donation, the fair market value of the advantage is deducted from the fair market value of the donation to determine the eligible amount for the purposes of the donation receipt.

16.4 Official Donation Tax Receipts can be provided for in-kind donations only after the following has been assessed:

- a) Written valuation of donations in-kind, done within the last six (6) months, shall be submitted with the requests for official receipt and is to meet the following requirements:
  - \$1,000 or less:
    - Appraisal by knowledgeable Town staff, and;
    - Valuation from on-line auction or shopping website.
  - Over \$1,000:
    - External appraisal by an independent and at arm's length competent individual is required, and;
    - Responsibility and the costs associated with obtaining a qualified appraisal shall be determined by the departmental Director.



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16.5 At the Town's discretion and determination, the donor is responsible for related costs for all donations, as applicable, and those costs which are not eligible for a donation receipt including transportation of the donated item and transfer costs for cash donations.

### **17. DONATIONS INELIGIBLE FOR AN OFFICIAL DONATION TAX RECEIPT:**

17.1 The following are examples of donations that are ineligible for official donation income tax receipts in accordance with CRA guidelines:

- a) Donations that are given to the Town intended as a flow through to a specified recipient who does not have charitable organization status;
- b) Intangibles- non-monetary assets without physical substance, such as services, time, skills, effort; donations of service/labour;
- c) Donations of business marketing products such as supplies and merchandise;
- d) Donations in exchange for advertising or sponsorship;
- e) Payment for a lottery ticket or other chance to win a prize;
- f) Non-cash donation for which a fair market value cannot be determined;
- g) Donations for which the fair market value of the advantage or consideration provided to the donor exceeds 80% of the value of the donation;
- h) A donation in kind for which a fair market value cannot be determined; and
- i) Other associated costs of donation not eligible for an income tax receipt as per CRA guidelines.

### **18. DONOR RECOGNITION:**

18.1 Public recognition may be in the form of any or all of the following, and will be agreed with the donor prior to the donation:

- a) Letter of Appreciation from Council, CAO or Director;
- b) Public presentation at an event or a Council meeting;
- c) Public announcement of donation in traditional or social media;
- d) Recognition on Town website, and/or
- e) Recognition on-site to be determined on a case by case basis and must be according to Town By-laws and other legal agreements and included in the agreements.

18.2 Recognition must comply with the Town's visual identity and logo policies, if applicable.

18.3 Naming of specific Town property, facilities or events will be done at the discretion of Council. As per BY-LAW No. 8982-2017: Municipal Facility and Asset Naming Policy and Section 13 of this policy.



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### **19. CONFIDENTIALITY OF DONOR INFORMATION**

19.1 Subject to any applicable legislative disclosure requirements, such as the Municipal Freedom of Information and Protection of Privacy Act, R.S.O 1990, all information pertaining to donors and donations received by the Town is considered confidential. Charitable giving is normally a personal and sensitive issue. To ensure the privacy of donor information it is necessary to control access to donor and donation information. A donor may request that their gift and/or all information pertaining to that gift remain anonymous.

### **20. DONATION, SPONSORSHIP AND ADVERTISING ROLES AND RESPONSIBILITIES:**

20.1 Town staff are responsible for:

- a) Ensuring this policy is consistent with the Town's accounting procedures and other statutory requirements;
- b) Authorizing all official donation tax receipts;
- c) Responding to solicited and unsolicited donation, sponsorship and advertising requests and ensuring that the process followed complies with this policy;
- d) Monitoring the achievements, objectives and performance standards of sponsorship, advertising and donation agreements; and
- e) All sponsorship, donation and advertising agreements should be evaluated on an annual basis to determine continued benefit.