

POLICY NO. P16-02
EXHIBIT A

GUIDELINES AND POLICIES GOVERNING ALL ADVERTISING IN OR UPON
CITY OF COLDWATER FACILITIES

I. PURPOSE:

- A. The City of Coldwater Advertising Policy (“Advertising Policy”) applies to the posting of all new advertisements on facilities and property owned by the City of Coldwater (the “City”) on or after the effective date of the resolution adopting this policy.
1. City owned property. The City owns a number of recreational facilities and areas, including without limitation, the Dr. Robert W. Browne, providing recreational and health promoting facilities (the “Facilities”) to the City and townships throughout Branch County, as well as to guests.
 2. Advertising as Revenue Source. The Facilities are funded by a combination of grant and local funds, including taxes, as well as revenue from users of the Facilities. Advertising revenues are sought as an important additional source of revenue to support the Facility operations. The City’s fundamental purpose in accepting Facility advertising is to generate revenue to augment the Facilities’ operating budgets.
 3. Primary Purpose of City Owned Property and Facilities. The primary purpose of the Facilities and other property where advertising may be posted in exchange for payment of funds is to provide a safe, family friendly environment, where children and adults may enjoy quality leisure and recreational activities. Consistent with this purpose, the City places great importance on maintaining safe, comfortable, family friendly and convenient environments in order to, among other things consistent with these goals, retain existing Facility users and attract new users to the Facilities. To generate additional revenue while also accomplishing the primary objectives of the facilities, the City will accept advertising in some of its Facilities only if such advertising complies with this Advertising Policy.
 4. Non-Public Forum Status. It is the express intention of this Advertising Policy and the resolution adopting this policy to designate the City’s property allocated for advertising as a non-public forum. The City’s acceptance of advertising will not provide or create a general public forum for expressive activities. In keeping with its proprietary function with respect to the Facilities and other City owned property that may be used for advertising, the City does not intend its acceptance of advertising to permit its Facilities to be used as open public forums for

public discourse and debate. Rather, the City's fundamental purpose and intent is to accept advertising as an additional means of generating revenue to support its Facility operations. In furtherance of that discreet and limited objective, the City will retain strict control over the nature of the advertisements accepted for posting on or in its Facilities and will maintain its advertising space as a non-public forum.

5. Policy Advances Revenue Objective. The City acknowledges that certain types of advertisements interfere with the primary purpose of generating revenue to benefit the Facilities. This Advertising Policy advances the advertising program's revenue-generating objective by prohibiting advertisements that could detract from that goal by creating substantial controversy, interfering with and diverting resources from Facility operations, and/or posing significant risks of harm, inconvenience, or annoyance to Facility users. Such advertisements create an environment that is not conducive to achieving revenue for the benefit of the Facilities or to preserving and enhancing the security, safety, comfort and convenience of Facility operations. The viewpoint neutral restrictions in this Advertising Policy foster the maintenance of a professional advertising environment that maximizes advertising revenue.

This policy is intended to provide clear guidance as to the types of advertisements that will allow the City to generate revenue and enhance Facility operations by:

- Increasing and maximizing revenue;
- Preventing the appearance of favoritism by the City;
- Preventing the risk of imposing views on a captive audience;
- Maintaining a position of neutrality on controversial issues;
- Preserving the marketing potential of the advertising space by avoiding content that the community could view as offensive, inappropriate or harmful to the public generally or to minors in particular;
- Maximizing the number of users of Facilities;
- Avoiding claims of discrimination and maintaining a non-discriminatory environment for users;
- Preventing any harm or abuse that may result from running controversial or offensive advertisements; and
- Reducing the diversion of resources from Facility operations that are caused by controversial or offensive advertisements.

6. Application of Policy. This Advertising Policy applies to the posting of all new advertisements in or on Facilities and other City owned properties on or after the effective date of the resolution adopting this policy. Any advertisements which would be prohibited under this Advertising Policy, but which were or will be posted pursuant to the terms of a fully executed advertising contract prior to the effective date

of this Advertising Policy, will be allowed to be posted or to remain posted for the duration of that contract. The Facilities are a non-public forum and, as such, the City will accept only that advertising that falls within the categories of acceptable advertising specified in this viewpoint neutral policy and that satisfies all other access requirements and restrictions provided herein. This Advertising Policy does not apply to the City owned property in the possession of another party pursuant to a lease, license or concession agreement.

II. ADVERTISING POLICY:

A. Permitted Advertising Content – The following classes of advertising are authorized in City Facilities if the advertising does not include any material that qualifies as Prohibited Advertising under this Advertising Policy:

1. Commercial and Promotional Advertising. Commercial and Promotional Advertising promotes or solicits the sale, rental, distribution or availability of goods, services, food, entertainment, events, programs, transactions, donations, products or property (real or personal) for commercial purposes or more generally promotes an entity that engages in such activities.
2. Governmental Advertising. Governmental entities, meaning public entities specifically created by government action, may purchase advertising space for messages that advance specific government purposes.

B. Prohibited Advertising Content. Advertising is prohibited in City Facilities if it includes any of the following contents:

1. Political. Advertisements promoting or opposing a political party, or promoting or opposing the election of any candidate or group of candidates for federal, state, judicial or local government offices are prohibited. In addition, advertisements that are political in nature or contain political messages, including advertisements involving political or judicial figures and/or advertisements involving an issue that is political in nature in that it directly or indirectly implicates the action, inaction, prospective action or policies of a governmental entity are prohibited.
2. Public Issue. Advertisements expressing or advocating an opinion, position or viewpoint on matters of public debate about economic, political, religious or social issues are prohibited.
3. Prohibited Products, Services or Activities. Any advertising that promotes or depicts the sale, rental, or use of, or participation in, the following products, services or activities; or that uses brand names, trademarks, slogans or other material that are identifiable with such

products, services or activities:

- a. Alcohol: Alcohol products, and by alcohol beverage companies and advertising that contains the word “liquor” or depicts alcoholic beverages; however restaurants and other similar establishments that derive a substantial portion of their revenue from the service of food and non-alcoholic beverages will be permitted to advertise so long as the advertisement contains no reference to nor image associated with alcohol containing products;
- b. Tobacco: Tobacco products, tobacco-related products, and products that simulate smoking or are modeled on the tobacco products, including but not limited to cigarettes, cigars, and smokeless (e.g., chewing) tobacco, and electronic cigarettes; advertising that contains the words “cigarette” and “smoke” and other similar references to tobacco products or depictions of the same;
- c. Marijuana: Advertising that references marijuana and/or medical marijuana products and services or use the words “marijuana” or “THC” or depictions of the same;
- d. Gambling: Gambling, casinos, or generally games of chance or by businesses primarily associated with the same;
- e. Adult/Mature Rated Films, Television or Video Games: Adult films rated “X” or “NC-17”, television rated “MA” or video games rated “A” or “M”;
- f. Adult Entertainment Facilities: Adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments;
- g. Other Adult Services: Adult telephone services, adult internet sites and escort services;
- h. Nudity, Sexual and/or Excretory Subject Matter: Advertising depicting nudity, sexual conduct or sexual excitement is not permitted. The terms “nudity,” “sexual conduct,” and “sexual excitement” have the same meanings herein as in MCL 117.5h and as such law may be amended, modified or supplemented;
- i. False or Misleading: Any material that is or that the sponsor reasonably should have known is false, fraudulent, misleading, deceptive or would constitute a tort of defamation or invasion of privacy;
- j. Copyright, Trademark or Otherwise Unlawful: Advertising that contains any material that is an infringement of copyright, trademark or service mark, or is otherwise unlawful or illegal;
- k. Illegal Activity: Advertising that promotes any activity or product that is illegal under federal, state or local law;
- l. Profanity and Violence: Advertising that contains any profane language, or portrays images or descriptions of graphic violence, including dead, mutilated or disfigured human beings or

animals, the act of killing, mutilating or disfiguring human beings or animals, or intentional infliction of pain or violent action towards or upon a person or animal, or that depicts weapons or devices that appear to be aimed or pointed at the viewer or observer in a menacing manner;

- m. Firearms: Advertising that promotes or solicits the sale, rental, distribution or availability of firearms or firearms-related products;
- n. Disparaging: Advertising that is intended to be (or reasonably could be interpreted as being) disparaging, disreputable, or disrespectful to persons, groups, businesses or organizations, including advertising that portrays individuals as inferior, evil or contemptible;
- o. Adverse to City: Advertising, or any material contained in it, that is directly adverse to the commercial or administrative interests of the City, or that tends to disparage the quality of service provided by the City, or that tends to disparage the City generally;
- p. Churches: Advertising by or referring to any church.
- q. City Graphics and References: Advertising that contains City graphics, logos, representations without the express written consent of the City;
- r. Insulting, Degrading or Offensive: Any material directed at a person or group that is so insulting, degrading or offensive as to be reasonably foreseeable that it will incite or produce lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order;
- s. Harmful or Disruptive to Facilities: Any material that is so objectionable under contemporary community standards as to be reasonably foreseeable that it will result in harm to, disruption of or interference with the enjoyment of the Facilities by the users.
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C. Additional Requirements.

Rules for size of signs, layout, colors, and font sizes shall be established by City staff to ensure aesthetically pleasing appearance and uniformity of presentation. Placement of signs shall be determined in the sole discretion of City staff. All advertisement must clearly identify the sponsor.

III. PROCEDURES:

- A. All proposed advertising must be submitted to the City of Coldwater Recreation Department for initial compliance review. The City will perform a preliminary evaluation of the submission to assess its compliance with this policy. If the City determines that a proposed advertisement does not comply with this Advertising Policy it may at any time discuss with the entity

proposing the advertisement one or more revisions to an advertisement, which, if undertaken, would bring the advertisement into conformity with this Advertising Policy.

- B. In the event the City determines that a proposed advertisement does not comply with this Advertising Policy or is unable to make a compliance determination, the Mayor shall conduct a final review of the proposed advertising at the request of the sponsor for compliance with the guidelines set forth in this policy and will direct the City as to whether the proposed advertisement will be accepted. The decision of the Mayor to approve or reject any proposed advertising shall be final.
- C. The City or the Mayor may consult with the City's legal counsel at any time during the review process.
- D. The City Manager and the Mayor are responsible for the Implementation of this Advertising Policy.