

MEMORANDUM**TO:** Board of Trustees**THROUGH:** Mike Bandelin, Interim General Manager**FROM:** Paul Raymore, Marketing Director**SUBJECT:** Adopt Policy and Procedure No. 143/Resolution No. 1904 regarding advertisements in the IVGID Magazine and other District publications, at District-owned venues and District-sponsored events. (Requesting Legal Counsel: Josh Nelson and Anne Branham)**LONG RANGE PRINCIPLE #6 - COMMUNICATION**

The District will engage, interact and educate to promote understanding of the venues, facilities, services, and ongoing affairs.

DATE: October 25, 2023**I. RECOMMENDATION**

That the Board of Trustees adopt the amended Policy and Procedure No. 143/Resolution No. 1904 regarding acceptance of advertisements for the IVGID Magazine and other District publications, at District-owned venues and District-sponsored events.

II. BACKGROUND**AMENDED VERSION OF POLICY AND PROCEDURE NO. 143/RESOLUTION NO. 1904**

On Sept. 27, 2023, the Board of Trustees voted to approve Policy and Procedure No. 143/Resolution No. 1904, with amendments requested from our legal team at BBK Law during the motion. Attached to this consent calendar item are redlined and clean versions of the amended District Advertising Policy.

Updates made:

- Clarified definition of "commercial speech"
- Added criteria to allow for PSAs from government agencies and non-profits as defined in the policy
- Clarified District's position on political advertisements
- Clarified exceptions for local churches to advertise programs or events that are open to all members of the community

Staff is seeking approval of the final Policy and Procedure No. 143/Resolution No. 1904

attached. A redlined version of the original policy presented on Sept. 27, 2023 is also attached for reference.

ORIGIAL DISCUSSION

The District presently manages the production of the “IVGID Magazine,” which publishes five times per year. The District contracts with CC Media for design services, management of printing and distribution, and management of advertising submissions and rates, but the District has not adopted a formal policy regarding what is appropriate and acceptable for publication as an advertisement in the IVGID Magazine. In addition, the District owns and operates a number of public facilities and runs a number of public events where advertisements and sponsorship opportunities may exist, including but not limited to the Incline Open Tennis & Pickleball Tournament, IVGID Parks and Recreation facilities and events, Diamond Peak event sponsorships and Lakeview chairlift ad blocks, and the IVGID ball fields.

In the District’s experience, certain types of advertisements can interfere with the District’s primary advertising purpose of bringing public awareness to important District issues and generating revenue to benefit District services. This policy advances the advertising program’s revenue-generating and public service objectives by prohibiting advertisements that could detract from that goal by creating substantial controversy, interfering with and diverting resources from District operations, and/or posing significant risks of harm, inconvenience, or annoyance to District stakeholders and other members of the public. Such advertisements create an environment that is not conducive to achieving increased revenue for the benefit of District services or to preserving and enhancing the security, safety, comfort and convenience of its operations. The viewpoint neutral restrictions in this policy thus foster the maintenance of a professional advertising environment that maximizes advertising revenue.

In short, the following categories of third-party advertisements will not be accepted under the draft policy:

- Ads that do not qualify as “commercial speech” (i.e., only ads that propose commercial transactions, like buying/selling/economic exchanges are permitted)
- Ads involving trademark/patent infringement
- Obscene, pornographic, and offensive ads (as defined in the policy)
- Defamatory, false, and deceitful ads
- Ads advocating for violence or portraying violence
- Ads directly or indirectly promoting any specific form of religion or religious practice, except for summer camps or similar programs that are open to all children in the community
- Ads that imply the District has “endorsed” any service, product, or point of view without prior written authorization
- Ads for tobacco, firearms, non-carbonated bottled water, cannabis

products and services, CBD products and services, and short-term rentals and services

- Ads for ski areas, ski lesson providers, golf courses and golf shops, tennis and pickleball centers or services, recreation centers, fitness centers and gyms, and wedding and event venues, other than those that the District owns, operates, or manages
- Ads that conflict with federal, state, or local law

In addition, all advertisements submitted for review must clearly identify the sponsor of that ad. Any person who is found to have violated the policy may be prohibited from submitting ad requests in the future. Language will be included when appropriate, clarifying that the views expressed in the ad do not necessarily reflect the District's position. And, the District's GM or designee will retain the right to control the quantity, quality, and placement of all ads, and reject ads that do not comply with the adopted policy.

Finally, staff notes that this policy will not affect the District's ability to utilize existing advertising space to market its own facilities, services, and programs as it sees fit.

III. BID RESULTS

IV. FINANCIAL IMPACT AND BUDGET

No direct impact by adoption of the policy. Ads published in the IVGID Magazine support the production of the magazine.

V. ALTERNATIVES

Below are alternatives to the recommended action:

1. Adopt the proposed policy.
2. Decline to move forward at this time with this proposed amendment.
3. Suggest changes to the proposed policy and bring it back for discussion at the next meeting.

VI. COMMENTS

VII. BUSINESS IMPACT/BENEFIT

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement.

VIII. ATTACHMENTS

1. IVGID Districtwide Advertisement Policy [BBK redlines 10
2. IVGID Districtwide Advertisement Policy [BBK clean 10.13]-c1

IX. DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES



Resolution 1904

IVGID Districtwide Advertisement Policy

WHEREAS, the Incline Village General Improvement District (IVGID) publishes or displays advertisements in IVGID publications and at IVGID facilities; and

WHEREAS, IVGID wishes to adopt this policy to outline the rules and regulations regarding these advertisements to ensure compliance with law and best practices; and

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT, that it hereby adopts the attached Districtwide Advertising Policy.

BE IT FURTHER RESOLVED, that the attached Policy and procedures will remain in effect until changed or rescinded by the Board of Trustees.

* * * * *

I hereby certify that the foregoing is a full, true and correct copy of Resolution No. 1904, Policy and Procedure Resolution No. 143, as amended and adopted by the Board of Trustees of the Incline Village General Improvement District on the ___th day of _____, 2023, by the following vote:

AYES, and in favor thereof,
NOES,
ABSENT,

Clerk, IVGID Board of Trustees



Policy and Procedure No. 143

IVGID Districtwide Advertisement Policy

The Incline Village General Improvement District (“IVGID” or the “District”) is a general improvement district organized pursuant to NRS Chapter 318. As part of its services to local residents and visitors to the area, the District publishes regular editions of the “IVGID Magazine,” and owns and operates a number of publicly available facilities such as parks and tennis courts, among other things. In addition, the District owns and operates a number of public facilities and runs a number of public events where advertisements and sponsorship opportunities may exist, including but not limited to the Incline Open Tennis & Pickleball Tournament, IVGID Parks and Recreation facilities and events, Diamond Peak event sponsorships and Lakeview chairlift ad blocks, and the IVGID ball fields. To support the publication of the IVGID Magazine, raise revenues for lawful District purposes, and facilitate oversight of advertisement/sponsorship opportunities at other District venues and events, the District accepts paid advertisements and sponsorships from third parties (hereafter, collectively referred to as “Advertisements”), subject to rates published by the District for such purposes and this Policy.

In keeping with its functions noted above, and to the extent allowable by law, the District does not intend by accepting Advertisements to convert the IVGID Magazine or venues/events that it owns and operates into open public forums for public discourse, debate, or expressive activity. Rather, the District accepts Advertisements as a means of generating revenue to support its operations, and communicating information about District services and events to the public. In furtherance of this limited objective, the District retains strict control over the nature of Advertisements accepted for publication in the IVGID Magazine, in its venues, and at its events, and maintains such advertising spaces and opportunities as a non-public forum. This Policy prohibits Advertisements that could detract from the District’s goal of generating revenue or interfere with the safe and convenient delivery of District services to the public. This Policy is intended to be an objective and enforceable standard for advertising that is consistently applied, and which is consistent with the free speech guarantees of the constitutions of the United States and the State of Nevada. Through this Policy, the District intends to establish the following uniform, viewpoint-neutral standards for advertisements in the IVGID Magazine and in other venues owned and operated by the District:

- 1. In accordance with the revenue-generating purpose of this Policy, the District shall accept only third-party Advertisements which contain either “Public Service Announcements” (PSAs) or “Commercial Speech.”
 - a. Commercial Speech is defined as speech for which the sole purpose is to sell products, goods, or services for a profit. Commercial Speech does not include advertising that combines a commercial message with a message that is not permitted under this Policy, e.g. an advertisement that both offers a product for sale and promotes the election of a certain candidate for public office.

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Deleted: that does no more than propose a commercial transaction, or is an expression related solely to the economic interests of the speaker and its audience (e.g., promotes for sale, lease, or other financial benefit a product, service, or other property interest)

Deleted: Notwithstanding the foregoing, the following types of content will be allowed:



Policy and Procedure No. 143

IVGID Districtwide Advertisement Policy

- b. An advertisement shall satisfy the following criteria in order to qualify as a PSA that may be accepted pursuant to this Policy:
 - i. The sponsor of a PSA must be a local, state, or federal government agency or legally affiliated entity (including IVGID itself), or an eligible non-profit, defined as a local non-profit, national non-profit with a local chapter, or local government agency or school district providing services to the local community. Qualifying non-profits shall be an IRS 501(c)(3) non-profit corporation, shall provide supporting documentation of their non-profit status when submitting Advertisement requests, and shall otherwise comply with all applicable requirements in this Policy.
 - ii. The PSA must be directed to the general public or a significant segment of the public, and must relate to:
 - (a) Promotion of IVGID services or programs, including co-sponsorships with third parties that relate to or support IVGID's function and services;
 - (b) Prevention or treatment of illness, or promotion of safety, health, or personal well-being;
 - (c) Provision of family or child social services;
 - (d) Local (within the Incline Village/Crystal Bay community) fundraising or community events.
 - iii. A PSA may not include any Commercial Speech or mention a festival, show, concert, lecture, or other event for which an admission fee is charged for commercial purposes.
- 2. Advertisements that infringe on any copyright, trade or service mark, title, or slogan without the written consent of the owner of said copyright or mark will not be accepted.
- 3. Advertisements that are obscene or pornographic will not be accepted.
- 4. Advertisements that promote or oppose a political party, the election of any candidate or group of candidates for public office, any legislation, initiative, referendum, or ballot measure, or any political action committee, political campaign, or political group advocating for a particular economic, political, religious, or social issue will not be accepted.
- 5. Advertisements that may be perceived as offensive to any religious, ethnic, or racial group will not be accepted.
- 6. Advertisements that are clearly defamatory or contain false, deceitful, or grossly misleading information will not be accepted.
- 7. Advertisements that advocate for or portray acts of violence, murder, sedition, terror, vandalism or other acts of violence against persons, animals, or institutions will not be accepted.

Deleted: <#>Advertisements from other local, state, or federal governmental agencies or legally affiliated entities relating to public programs, services, or events that do not otherwise qualify as Commercial Speech.¶

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Policy and Procedure No. 143

IVGID Districtwide Advertisement Policy

- 8. Advertisements that directly or indirectly promote any form of religion or religious practice will not be accepted, except that local churches may advertise programs or events that are available to all members of the community.
- 9. Advertisements that imply or declare an endorsement by IVGID of any service, product, or point of view without prior written authorization from IVGID will not be accepted.
- 10. Advertisements for tobacco, firearms, non-carbonated bottled water, cannabis products and services, CBD products and services, and short-term rentals and services will not be accepted.
- 11. Advertisements for ski areas, ski lesson providers, golf courses and golf shops, tennis and pickleball centers, wedding and event venues, and recreation centers, fitness centers, and gyms—or services other than those that the District owns, operates, or manages—are prohibited.
- 12. Advertisements that otherwise are in conflict with any applicable federal, state, or local law, statute, or ordinance will not be accepted.
- 13. All Advertisements must clearly identify the sponsor(s) of that Advertisement.
- 14. Any person or entity who has previously violated any provision of this Districtwide Advertisement Policy may be prohibited from posting any Advertisements.
- 15. All Advertisements published by the District shall be formatted in such a way as to not be confused with IVGID’s editorial content, and any “advertorial” style Advertisements shall clearly state that the content is a paid advertisement. The District reserves the right to place a statement in all publications that says: “The views expressed in the advertisements in this publication do not necessarily reflect the views of the Incline Village General Improvement District.”
- 16. Quantity, quality, and placement of all Advertisements will be controlled by and subject to the specific approval of the District’s General Manager or designee, who reserves the right to review each Advertisement in advance and reject any proposed Advertisement that does not meet the District’s standards as set forth in this Policy.

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The District reserves the right, from time to time, to amend, suspend, modify or revoke the application of any or all of these standards as it deems necessary to comply with legal mandates, or to facilitate its primary functions, or to fulfill the goals and objectives referred to herein. All provisions of this Policy shall be deemed severable.

District contracts granting advertising rights shall include this Policy as an attachment. The District reserves the right to contract with third party companies or agencies to manage and oversee the District’s Advertisement sales, but all such sales must be contingent upon compliance with this Policy.



Resolution 1904

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