

Use of City Resources during an Election Period Policy

POLICY STATEMENT

This policy sets out provisions for the use of City facilities, resources and infrastructure during an election period, in order to preserve the public trust and integrity in the elections process and to comply with the Municipal Elections Act, 1996 ("Act"). This policy allows the City to balance the need for freedom of expression and assembly of candidates and its legal responsibility to ensure that no candidate, registered third party advertiser or political party is provided with an unfair advantage.

This policy recognizes that Members of Council are holders of their office until the end of the term and supports them in continuing to fulfill their responsibilities as Members of Council. Nothing in this policy shall preclude a Member of Council from performing their duty as an elected official, nor inhibit them from representing the interests of their constituents.

PURPOSE & BACKGROUND

The Act requires municipalities to establish rules and procedures for the use of municipal resources during the election period (section 88.18). The Act also provides that the City cannot make a contribution (including money, goods and services) to any candidate, registered third party advertiser or political party during an election (sections 88.8(4) and 88.12(4)). The *Election Finances Act* and the *Canada Elections Act* impose similar contribution restrictions for provincial and federal election campaigns, respectively.

The provisions in this Policy may also be subject to additional City by-laws and policies.

APPLICATION

This policy applies to municipal (including school board), provincial or federal elections or by-elections and to questions on the ballot. References in the policy with respect to political parties refers to provincial and federal elections or by-elections and do not apply to the City's municipal elections or by-elections.

PROVISIONS

1. Access to City Facilities during an Election Period

- 1.1 City facilities and City infrastructure may not be used for any election-related purpose by a candidate, registered third party advertiser or political party. In particular, signs may not be erected or displayed on or adjacent to a City park or facility that is owned or operated by the City, in accordance with Toronto Municipal Code, Chapter 693, Signs, Article II, Election Signs.
- 1.2 No permits, licenses, leases or any other agreement for the use of City facilities, including civic squares and parks, will be issued to promote, support or oppose a particular candidate, registered third party advertiser or political party.
- 1.3 All-candidate meetings may be held at City facilities for a nominal fee or other consideration provided that all candidates for an office are invited to attend such meetings.
- 1.4 Candidates, registered third party advertisers or political parties may not distribute campaign materials on or in City facilities or at City events, but are permitted to distribute campaign materials on public right of way sidewalks and thoroughfares, during all-candidates meetings, at public parks and at the following City managed public squares: Nathan Phillips Square, Mel Lastman Square, Albert Campbell Square and David Pecaut Square.
- 1.5 The City may issue a permit for the use of a City facility for election-related education purposes only, as long as no particular candidate, registered third party advertiser or political party is promoted, supported or opposed at the event. These events may include, but are not limited to: informing Members of Council or the public on how to become a candidate, registered third party advertiser or political party, or informing them on how to organize an election campaign.
- 1.6 Canvassing and distribution of campaign materials in some City facilities is permitted under the *Residential Tenancies Act, 2006* ("RTA"), which states that "No landlord shall restrict reasonable access to a residential complex by candidates for election to any office at the federal, provincial or municipal level, or their authorized representatives, if they are seeking access for the purpose of canvassing or distributing election material." City-operated Long-Term Care Homes and other City facilities governed under the provisions of the RTA fall under the definition of "residential complex".
- 1.7 Informal media scrums are permitted in the public or common areas at Toronto City Hall, Metro Hall, civic centres and at the following City managed public squares: Nathan Phillips Square, Mel Lastman Square, Albert Campbell Square and David Pecaut Square.

Informal media scrums may not include: apparatus, mechanisms or devices for the amplification of the human voice or any sounds. The activity may not disrupt regular City business. If the media scrum is disrupting City services, City staff may ask the participants to find an alternative location.

2. Access to City Resources during an Election Period

- 2.1 The City's logo, crest, slogans, etc., may not be printed, posted or distributed on any election-related campaign materials or included on any election-related website, in accordance with the City's Corporate Identity Program, except to link to the City's website to obtain information about the municipal election.
- 2.2 Candidates may not post photographs of themselves with City employees in uniform.
- 2.3 Photographic or video materials which have been or may be created by City employees or with City resources may not be used for any election purpose or in campaign materials.
- 2.4 Websites or domain names that are funded by the City may not include any campaign materials, make reference to and identify any individual as a candidate, registered third party advertiser or political party or profile any slogan or symbol associated with a candidate, registered third party advertiser or political party.
- 2.5 Domain names, websites or City email addresses that the City funds may not include any election-related campaign material and may not be re-designated for campaign purposes or provide a link to a campaign site.
- 2.6 Members of Council should follow the guidance of the Integrity Commissioner with respect to social media use.

3. Access to City Information during an Election Period

- 3.1 Information provided to one candidate, registered third party advertiser or political party that is of a general nature and may provide valuable guidance to all others will be provided to all candidates, registered third party advertisers or political parties. The City will post the information on the internet or through other mechanisms to ensure equal access to information.
- 3.2 Requests by a candidate, registered third party advertiser or political party for personal meetings with Division Heads or other City employees, as well as requests for tours of City facilities may not always be accommodated due to resource and time constraints. If a meeting or a tour is organized, the division

must commit to organizing a similar meeting or tour for all other candidates, registered third party advertisers or political parties.

- 3.3 City databases, with the exception of those specifically made for the use of candidates and registered third party advertisers, may not be used by any candidate, registered third party advertiser or political party, unless the database has already been released for public use.

4. Attending City Events during an Election Period

- 4.1 Candidates, registered third party advertisers or political parties are permitted to attend City events, or events held at City facilities, in either their capacity as elected representatives or as private citizens, but may not campaign while in attendance. No election signs may be posted and no campaign materials may be disseminated at City events.
- 4.2 Elected officials are permitted to attend City-organized events or events held on City facilities and act as ceremonial participants in their capacity as elected officials, including speaking at the event and partaking in ceremonial activities. In provincial or federal elections, once the writ is issued, MPPs and MPs, with the exception of the Ministers of the Crown, are no longer elected officials and therefore should not be invited to attend City events.

5. Restrictions to Services Provided to Members of Council beginning August 1 of an Election Year*

- 5.1 Members of Council may also be candidates in a municipal election. Accordingly, after August 1 in the municipal election year, the City will discontinue the following activities for Members of Council, irrespective of whether they are seeking election in the new term or not:
 - 5.1.1 All forms of advertising and communication, including in municipal publications and social media accounts, that are paid for by City funds or operated and distributed by the City will not reference the name or image of a Member of Council.*
 - 5.1.2 Signage for City events, including banners and posters, will not reference the name of a Member of Council.
 - 5.1.3 The City's media releases or materials will not reference the name of a Member of Council. Where the City would typically name a specific Member of Council or the Mayor in its communications or media materials during an election period, it will make reference to the generic term "Councillor Ward XX" or "Mayor of Toronto" without naming the specific Member of Council. With the exception of inter-governmental initiatives

City of Toronto:

Use of City Resources during an Election Period Policy

(per clause 5.3 below), this practice will be used for all City programs, events, announcements and to ensure effective communications with residents and businesses with respect to operational requirements, impacts or emergency situations.

- 5.1.4 Ceremonial documents such as retirement scrolls for employees, scrolls in celebration of anniversaries, Letters of Greeting and other celebratory documents normally signed and distributed by Members of Council will be signed by the Mayor as the Chief Executive Officer of the City. The City Clerk will mail documents directly to the recipient(s).
- 5.2 Members of Council are responsible for ensuring that the content of any communication material, including printed materials such as newsletters, advertising, etc., that the City funds for the operation of each Member's Office is not directly election-related.
- 5.3 After August 1 in the municipal election year, the Mayor will be subject to the same restrictions as Members of Council, but will continue to be named in media releases and City materials related to inter-governmental activities only in his or her capacity as Chief Executive Officer of the City.*

* Amended by item MM44.128 adopted by City Council at its meeting on July 23, 2018, to permit communications by Members of Council until September 7, 2018.

RELATED BY-LAWS, POLICES AND PROCEDURES

- City of Toronto Community Grants Policy:
<https://www1.toronto.ca/City%20Of%20Toronto/Shared%20content/Articles/Community%20Grants%20Policy%20All.pdf>
- City of Toronto Corporate Identity Program:
<http://insideto.toronto.ca/cip/introduction.htm>
- Code of Conduct for Members of Council:
<http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=c0f738379bac0410VgnVCM10000071d60f89RCRD>
- Constituency Services and Office Budget Policy:
<https://www.toronto.ca/wp-content/uploads/2017/08/964b-constituency-services-office-budget-policy.pdf>
- Toronto Municipal Code, Chapter 192, Public Service:
<http://www.toronto.ca/legdocs/municode/toronto-code-192.pdf>
- Toronto Municipal Code, Chapter 693, Signs, Article II, Election Signs:

https://www.toronto.ca/legdocs/municode/1184_693.pdf

- Use of Social Media by Members of Council, Interpretation Bulletin from the Office of the Integrity Commissioner:

https://www.toronto.ca/wp-content/uploads/2017/08/94e1-IC_SocialMediaCouncilMembers.pdf

APPENDIX "A"

Definitions for terms in the City of Toronto Use of City Resources during an Election Period Policy

Certain terms and phrases used throughout the Policy are defined in the Municipal Elections Act, 1996 (Act), the City of Toronto Act, 2006, and other relevant legislation. For those terms and phrases not so defined, the following definitions shall be used.

"Campaign Materials" – means any materials used to solicit votes for a candidate or question on the ballot in an election period including, but not limited to: literature, banners, posters, pictures, buttons, clothing, or other paraphernalia. Campaign materials include, but are not limited to: materials in all media, such as print, displays, electronic, radio or television and online sources including websites or social media.

"Campaigning" – means any activity by or on behalf of a candidate, registered third party advertiser, political party or question on a ballot meant to elicit support during the election period. Campaigning does not include the appearance of elected officials, other candidates or registered third party advertisers at an event in their personal capacity without the display of any signage or graphic which identifies the individual as a candidate or registered third party advertiser(s) and without the solicitation of votes.

"Candidate" – means any person who has filed and not withdrawn a nomination for an elected office at the municipal (including school board), provincial or federal level in an election or by-election.

"City Resources" – means, but is not limited to: City employees, City events, City facilities, City funds, City information and City infrastructure. These are further defined as follows:

- "City employees" – means all non-union management and exempt employees, and all members of City bargaining units.
- "City events" – means events funded or organized by the City or Members of Council, including events that may be jointly organized with community organizations or with external sponsors. City events include, but are not limited to: community meetings and consultations; parks, recreation or cultural facility openings or celebrations; and Community Environment Days. Events organized by City agencies and corporations are not considered City events for the purpose of this policy.
- "City facilities" – means any facility which is owned or leased by a City division and which is directly managed and operated by City divisions or programs, including, but not limited to:

- Toronto City Hall, Metro Hall, civic centres
- City-managed civic squares including: Nathan Phillips Square, Mel Lastman Square, Albert Campbell Square and David Pecaut Square. Excludes Yonge Dundas Square
- Community centres, arenas and club houses operated by Parks, Forestry and Recreation
- Museums and cultural facilities operated by Economic Development and Culture
- Buildings and yards operated by Toronto Water, Solid Waste Management and Transportation Services
- Child care centres
- Toronto Employment and Social Services offices and employment centres
- City shelters
- Constituency offices leased by Members of Council and paid for by City funds

Long-Term Care Homes are considered tenanted buildings under the Residential Tenancies Act, 2006 and have different legislative requirements and are mandated to allow canvassing and distribution of campaign materials to home residents either floor to floor or in meeting rooms.

City facilities do not include public right-of-ways such as sidewalks, roads and boulevards and laneways.

- "City funds" – means funding support through the City's annual operating or capital budgets, including, but not limited to: funds provided directly to City programs and services, Member of Councils' expenses and staffing budgets. The City's Community Grants Policy outlines political activity provisions for a grant recipient. It states that grant recipients shall not use funds provided by the City to oppose or endorse a named party or elected official. Any such grants may not be devoted directly to such activities or devoted indirectly through provision of resources to a third party engaged in partisan political activities.
- "City information" – means any information in the custody and control of the City, including databases that may be the repository of names, contact information, business records, financial information or other identifiers compiled and used by City employees to conduct City business. Examples of City databases include: grants recipients, lists of event attendees and resident association lists.

Constituent information collected by Members of Council is not under custody or control of the City and are not considered City information for the purpose of this policy.

- "City infrastructure" – means any physical or technology systems that support the operation of City programs and services, including but not limited to: City's ferries and fleet vehicles, computer network, telecommunications and email system, wireless equipment, computer hardware, software and peripherals, internet and intranet. Excludes public right-of-way including sidewalks, roads, laneways and boulevards.

"Contribution" – as defined in the Act:

- For a candidate – means "money, goods and services given to and accepted by a person for his or her election campaign, or given to and accepted by another person who is acting under the person's direction".
- For a registered third party advertiser – means "money, goods and services given to and accepted by an individual, corporation or trade union in relation to third party advertisements, or given to and accepted by another person who is acting under the direction of the individual, corporation or trade union".

"Elected Official" – means an individual elected to the House of Commons, the Legislative Assembly of Ontario, Toronto City Council or a school board.

"Election" – means an election or by-election at the municipal (including school board), provincial and federal level of government, or the submission of a question or by-law to the electors.

"Election Period" – means the official campaign period of an election.

- For a municipal (including school board) election, the election period commences on May 1 of an election year and ends on voting day.
- For a provincial or federal election, the election period commences the day the writ for the election is issued and ends on voting day.
- For a question on the ballot, the period commences the day City Council passes a by-law to put a question to the electorate and ends on voting day.
- For a by-election, the period commences when the by-election is called and ends on voting day.

"Media Event" – means an event such as a press conference or photo opportunity to which the media is invited and the purpose of which is to promote, support or oppose a candidate, registered third party advertiser, a political party or a position on a question on a ballot. Features of a Media Event can include, but are not limited to: the issuing of a media advisory stating date, time and location of briefing/press conference, use of

backdrops, podiums or public address systems, the distribution of media releases, media kits, display of signage or other materials to promote, support or oppose a candidate, registered third party advertiser or a position on a question on a ballot.

"Media Scrum" – means an unplanned encounter between a candidate, a registered third party advertiser, their staff or with media.

"Member of Council" – means the Mayor and Members of Council, except where the Mayor acts as the Chief Executive Officer of the City.

"Political Party" – means political parties for provincial and federal elections that are registered under the Ontario *Election Finances Act* or in the registry of parties referred to in section 374 of the *Canada Elections Act*. Under the current legislative framework, political parties cannot participate in the City's municipal elections or by-elections.

"Question on a Ballot" – means any question or by-law submitted to the electors by Council, a school board, an elected local board, or the Minister of Municipal Affairs under the Act.

"Registered Third Party Advertiser" – means, in relation to a municipal election, an individual, corporation or trade union that is registered with the City Clerk, as per section 88.6 of the Act, whose purpose is to promote, support or oppose a candidate for office, or an issue on a question on a ballot, and is not under the direction of a candidate.

"Third Party Advertisement" – means an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing a candidate for office, or an issue on a question on a ballot, and is not under the direction of a candidate.

"Voting Day" – means the day the final vote is to be taken in an election.