

City of Toronto Policy on Use of City Resources during an Election

As amended and adopted by City Council at its meeting on July 11, 2012

PURPOSE

The City of Toronto 'Policy on Use of City Resources during an Election' provides a consistent approach and direction to City employees on how City resources can and cannot be used during municipal, school board, provincial and federal election campaigns or campaigns on question on a ballot.

BACKGROUND

City of Toronto employees may be approached by some candidates to use City resources for the purposes of campaigning. A clear policy is required to guide the action of City of Toronto employees and help determine which requests can be accommodated and which should be denied.

The following legislative provisions bear highlighting as they relate to this policy:

The *Municipal Elections Act, 1996, s. 70 (4)*, states that municipalities cannot make a contribution to a candidate or registrant in municipal election campaigns. The *Election Finances Act* and the *Canada Elections Act* impose similar restrictions for provincial and federal election campaigns.

The *Residential Tenancies Act, 2006, s. 28* 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." Under the *Residential Tenancies Act*, Long Term Care Homes operated by the City fall under the definition of "residential complex", and therefore, s. 28 applies to them.

The *City of Toronto Act, 2006* defines the role of the Mayor as both the Head of Council and as the Chief Executive Officer (CEO) of the City. As CEO of the City, it is the role of the Mayor to promote public involvement in the City's activities and act as the representative of the City locally, nationally and internationally.

DEFINITIONS

"Campaigning" – means any activity by or on behalf of a candidate, 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 their supporters, or registrants at an event in their personal capacity without the display of any signage or graphic which identifies the individual as a candidate or registrant and without the solicitation of votes.

"Campaign Materials" – means any materials used to solicit votes for a candidate(s) or question in an election including but not limited to literature, banners, posters, pictures, buttons, clothing, or other paraphernalia. Campaign materials include materials in all media, for example, print, displays, electronic radio or television, online including websites or social media.

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

"City of Toronto Resources" – includes 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"* – for the purpose of this policy, City of Toronto employees include all non-union management and exempt employees, all employees in the offices of elected officials and in the offices of the Accountability Officers, and all members of City bargaining units.
- *"City events"* – means events funded or organized by the City of Toronto or Members of Council, including events that may be jointly organized with community organizations and/or with external sponsors. City events include, but are not limited to: community meetings and consultations, parks, recreation or cultural facility openings or celebrations, special events such as Nuit Blanche or Cavalcade of Lights, Farmers' Markets, Remembrance Day Services and Community Environment Days. Events organized by 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 of Toronto 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, club houses, parks and sports fields 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

- Other City buildings, such as 1530 Markham Road, 703 Don Mills Road etc.
- City shelters
- Constituency offices leased by City Councillors 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, laneways, except the sidewalk adjacent to Nathan Phillips Square, which is considered part of the Square.

- "*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, Councillor expenses and staffing budgets.

City of Toronto's Community Partnership and Investment Program (CPIP) maintains a 'Policy on Political Activities' which governs the behaviour of grant recipients. Grant recipients are not permitted to endorse or support a particular candidate or political party in programs that are funded by the City.

- "*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 of Toronto employees to conduct City business. Examples of City of Toronto databases include grants recipients, lists of event attendees and resident association lists.

Constituent information collected by City of Toronto Councillors and information in the custody of Accountability Officers are not under custody or control of the City and are not considered City of Toronto 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 the City's ferries and fleet vehicles, computer network, telecommunications and GroupWise e-mail 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 *Municipal Elections Act, 1996*, as amended means "money, goods and services given to and accepted by or on behalf of a person for his or her election campaign".

"Election" – means an election or by-election at the municipal, 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 or school board election, the election period commences on the first Monday of January 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.

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

"Glad-handing" – means attending a City event as a private individual and interacting with other event attendees without displaying signage or disseminating material which identifies the individual as a candidate and without encouraging votes for a candidate, a political party or a position on a question on a ballot.

"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 a candidate, 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 and/or media kits and/or the display of signage and/or other materials to promote a candidate or a position on a question on a ballot.

"Media Scrum" – means an unplanned encounter between a candidate, a registrant, their staff and/or a member or members of the media.

"Member of Council" – means the Mayor and the 44 City Councillors, except where the Mayor acts as the Chief Executive Officer of the City.

"New/Social Media" – means online technologies and practices used to share opinions, insights, experiences, and perspectives through words, pictures, music, videos and audio. Social media can take many different forms, including but not limited to internet forums, web logs (blogs), social blogs, messaging, wikis, podcasts, pictures, video, music sharing, rating and bookmarking.

"Political Party" – Political parties for provincial and federal elections are those registered with the Ontario *Election Finances Act* or in the registry of parties referred to

in section 374 of the *Canada Elections Act*. Political party for municipal, school board or question on a ballot means an organization whose fundamental purposes is to participate in public affairs by endorsing one or more of its members as candidates and supporting their election, or to promote the acceptance of a certain position on a question on a ballot.

"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 and Housing under the *Municipal Elections Act, 1996*.

"Registrant" – means an individual, corporation or trade union described in paragraphs 1 to 3 of subsection 70(3) who has registered with the clerk regarding a question on a ballot under the *Municipal Elections Act, 1996*.

"Supporter" – means a supporter of a yes or no response to a question on a ballot but not incurring expenses like a registrant.

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

Terms which are defined above are shown in **Bold** in the body of the policy.

PRINCIPLES

The City of Toronto must balance the need for freedom of expression and assembly of **candidates** and its legal responsibility to not provide an unfair advantage to any **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**.

The City of Toronto cannot make a **contribution** (including money, goods and services) to any **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**.

City of Toronto resources cannot be used to promote one **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** over another **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**.

This policy is intended to enable continued public and media access to **candidates** or **registrants** for information and interviews. The policy distinguishes between unplanned **media scrums** or chance public encounters by candidates and the media, whether in-person or online, and actual planned **media events** or rallies.

The policy recognizes that **Members of Council** are holders of their office until the end of their term and supports **Members** in continuing to fulfill their responsibilities as **Members of Council**.

SCOPE

This policy applies to City of Toronto Divisions and to the Offices of the Auditor General, Integrity Commissioner, Lobbyist Registrar and Ombudsman (the Accountability Officers).

The City Manager will review how this policy applies to City agencies and corporations.

POLICY

A. Activities Allowable during an Election

- A1) All-candidate meetings can be held at **City facilities** for \$1.00 fee provided that all **candidates** for an office or all **registrants** are invited to attend such meetings. This clause is subject to all applicable City by-laws and policies.
- A2) Canvassing and distribution of **campaign materials** in long-term care homes, as provided for by the *Residential Tenancies Act, 2006*.
- A3) **Candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** are permitted to distribute **campaign materials** on public right of way sidewalks and thoroughfares, at public parks, and at civic squares such as Nathan Phillips Square, Mel Lastman Square, Albert Campbell Square and David Pecaut Square subject to the existing permitting policies and by-laws for these facilities.
- A4) Informal **media scrums** are permitted in public or common areas at the following **City facilities** provided that no apparatus, mechanism or device for the amplification of the human voice or any sounds is used and that the activity is not disruptive to regular City business in the vicinity. If the **media scrum** is disruptive, employees may ask the participants to find an alternative location:
 - o Toronto City Hall, Metro Hall, civic centres
 - o City managed civic squares including Nathan Phillips Square, Mel Lastman Square, Albert Campbell Square and David Pecaut Square.

This clause is subject to all applicable City by-laws and policies.

- A5) **Candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** are permitted to attend **City events**, or events held at **City facilities**, in either their capacity as elected representatives or as private citizens to **glad-hand** with attendees and visitors, but may not solicit votes for themselves, a **political party, registrant** or a **supporter** of a **question on a ballot**. No **election** signs may be posted and no **campaign materials** may be disseminated at **City events**. This clause is subject to all applicable City by-laws and policies.

- A6) Permits for generic **election**-related purposes, such as teaching members of the public how to become a candidate or the knowledge to organize an **election campaign**, can be issued for **City facilities** as long as no one particular **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** is promoted or endorsed at the event.
- A7) **Elected officials** are permitted to attend City-organized events or events held on City of Toronto property and act as ceremonial participants in their capacity as **elected officials**, including speaking at the event and partaking in ceremonial activities. Once the writ is issued for Provincial or Federal **elections**, MPPs and MPs are no longer **elected officials** and therefore should not be invited to attend **City events**.
- A8) The Mayor will continue to be named in media releases and City materials that describe inter-governmental activities in his capacity as Chief Executive Officer of the City.
- A9) City of Toronto online information related to **Members** will continue to be accessible by the public.
- A10) City of Toronto databases already made available for public use, such as those published by the City of Toronto's Open Data project, may be used by **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**.
- A11) **City employees** may work on a **campaign** or support a **candidate** outside of their work hours, as long as they abide by the Human Resources policy titled "Employee Participation in Municipal Election Campaigns" which defines permitted **campaign** activity. The policy also prohibits certain employees from participating in any **campaign** activity.
- A12) Information that is provided by **City employees** to one **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** will be provided to all other **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**, either through posting of the information on the internet or through other mechanisms. The provision of information to **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** will be coordinated through the Strategic Communications Division.
- A13) If requested, the Accountability Officers will provide information to **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** directly and will post the information provided to one **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** on the websites for their Offices so that all **candidates, political parties, registrants** or a **supporter** of a **question on a ballot** during an **election** have equal access to the information.
- A14) Requests by **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** for personal meetings with Division

Heads, the Accountability Officers or other **City employees**, and 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 for one **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**, the division or the Accountability Officer would need to commit to organizing a similar meeting or tour for all other **candidates, political parties, registrants** or **supporters** of a **question on a ballot** during an **election**.

B. Activities Not Allowable during an Election

- B1) **City of Toronto resources** may not be used to support, endorse or otherwise provide an unfair advantage to any **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**.
- B2) **City of Toronto employees** may not **campaign** or actively work in support of a municipal, school board, provincial or federal **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** during working hours unless they are on a leave of absence without pay, lieu time, float day or vacation leave.
- B3) **City facilities** and **City infrastructure** cannot be used for any **election**-related purposes by **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**, including for the display of any **campaign**-related signs in windows or on the facilities, as well as for any other form of **campaigning** on the facilities, except as described in section A of this policy.
- B4) No permits, licenses, leases, or any other agreement for the use of **City of Toronto facilities**, including civic squares and parks, will be issued for the use or promotion of a particular **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**.
- B5) Any **Candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** shall not distribute any **campaign materials** in **City of Toronto facilities** or at **City of Toronto events**, except on public right-of ways, thoroughfares, in City parks and on City civic squares as described in A3 or during all-candidates meetings.
- B6) City of Toronto communications materials, whether for internal or public distribution, must not:
 - a. Profile (name or photograph), make reference to and/or identify any individual as a **candidate** in any **election** or a **registrant** in a **question on a ballot**.
 - b. Advocate for or against a particular **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**

Communications materials include but are not limited to: media releases, media advisories, invitations for special events, flyers, posters, banners, brochures and newsletters.

- B7) Websites or domain names that are funded by the City of Toronto must not include any **campaign materials**, make reference to and/or identify any individual as a **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**, or profile any slogan or symbol associated with a **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**.
- B8) **New/Social media** sites, blogs, and other new media created and managed by **City employees** must not make reference to and/or identify any individual as a **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**
- B9) Photographic or video materials which have been or may be created by **City employees** or with **City resources** must not be used in any **campaign materials**.
- B10) The City of Toronto logo must not be used in any **campaign materials**.
- B11) City databases must not be used by any **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election**, unless the database has already been released for public use.
- B12) **City infrastructure** cannot be used for any **election** purposes.
- B13) **City of Toronto employees** will not perform any service, offer any advice or provide any information solely for the use of one **candidate, political party, registrant** or a **supporter** of a **question on a ballot** during an **election** under section 39.1 of the *Municipal Elections Act, 1996*.

C. Restrictions related to Services Provided to Members of Council during an Election Year

As **Members of Council** may also be **candidates** in a municipal **election**, after August 1 in the municipal **election** year, **City employees** will discontinue the following activities for **Members of Council**. The same rule applies to all **Members of Council**, irrespective of whether they are seeking **election** in the new term or not:

- 1) Advertising and other communications materials paid for by **City funds** and distributed by the City of Toronto will not reference the name of a **Member of Council**.
- 2) Event signage, including banners and posters, will not reference the name of a **Member of Council**.
- 3) Media releases issued by Strategic Communications or divisional communications employees will not reference the name of a **Member of Council**.

- 4) Strategic Communications will not distribute media releases on behalf of any **Member of Council** unless such a release is considered to be consistent with their duties as an **elected official**.
- 5) 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. Documents will be directly mailed to community organizations by the Protocol section of the City Clerk's Office.

RELATED POLICES AND PROCEDURES

- Constituency Services and Office Budget Policy¹:
http://www1.toronto.ca/staticfiles/city_of_toronto/city_clerks/city_council/files/pdf/office-budget-policy.pdf
- City of Toronto Grants, Policy on Political Activities:
http://www1.toronto.ca/staticfiles/city_of_toronto/social_development_finance_administration/files/pdf/policy_political_activities.pdf
- Employee seeking election to political office:
<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/16093429d6c1c208852573530064fbbb?OpenDocument>
- Employee participation in municipal election campaigns:
<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/65b7b2a823965ea085256944005b5a7c?OpenDocument>
- Conflict of Interest Policy:
<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/429ad1b158a6de7c8525693b004bdc49?OpenDocument>
- Code of Conduct for Members of Council:
<http://www1.toronto.ca/wps/portal/contentonly?vqnextoid=c0f738379bac0410VqnVCM10000071d60f89RCRD>

ROLES AND RESPONSIBILITIES

City Manager: The City Manager is responsible for the administration of this policy. All issues with respect to this policy should be directed toward the City Manager.

Accountability Officers: The Accountability Officers are responsible for the implementation of this policy in their offices.

¹ The former 'Councillor Expense Policy' is now called the 'Constituency Services and Office Budget Policy' as amended and adopted by City Council at its meeting on July 11, 2012.

Division Heads: Division Heads are responsible for the application of this policy to City of Toronto resources, facilities and employees managed by their Divisions.

City Employees: City of Toronto employees are responsible for understanding and applying this policy and for seeking clarification and advice if required.

CONTACT

Employees of the City of Toronto should contact their Division Heads for guidance on this policy.

Employees of the Accountability Officers should contact their respective Accountability Officer for guidance on this policy.

Employees of Elected Officials should contact the City Clerk's Office for guidance on this policy.