

By-law 2022-62

A By-law of the City of Greater Sudbury to Adopt a Use of Municipal Resources During an Election Campaign Period Policy

Whereas section 88.18 of the *Municipal Elections Act*, 1996, SO 1996, c 32, Sch provides that in the year of a regular election, rules and procedures with respect to the use of municipal resources during an election campaign period be established before May 1st of that year;

And Whereas Council of the City of Greater Sudbury has determined that it is appropriate to adopt a new Policy regarding the use of municipal resources by Candidates, Registered Third Parties and Political Parties during election campaign periods;

And Whereas Council wishes to adopt an updated Use of Municipal Resources During an Election Campaign Period Policy to ensure that any use of municipal resources during an election campaign period complies with legislation that prohibits a municipality from contributing any resources to a Candidate, Registered Third Party or Political Party;

And Whereas Council wishes to delegate the authority for the administration of the Use of Municipal Resources During an Election Campaign Period Policy to the City Clerk;

Now therefore Council of the City of Greater Sudbury hereby enacts as follows:

1. The City of Greater Sudbury Use of Municipal Resources During an Election Campaign Period Policy attached hereto as Schedule "A" and forming part of this By-law is hereby adopted.
2. The administration of the Use of Municipal Resources During an Election Campaign Period Policy adopted under this By-law is assigned to the City Clerk who is delegated the authority to:
 - (a) make all decisions required to implement the Use of Municipal Resources During an Election Campaign Period Policy or specifically assigned to under this By-law;
 - (b) perform all administrative functions referred to herein and those incidental to and necessary for the due administration and implementation of the Use of Municipal Resources During an Election Campaign Period Policy; and
 - (c) establish and amend from time to time, such forms, documents, and such standards, protocols and procedures as they may determine are required to

implement and administer the Use of Municipal Resources During an Election Campaign Period Policy.

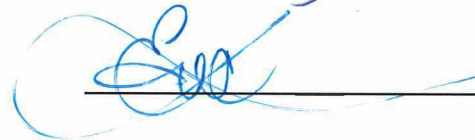
(2) The City Clerk may delegate the performance of any one or more of their functions under the Use of Municipal Resources During an Election Campaign Period Policy to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation. The City Clerk may continue to exercise any function delegated during the delegation.

(3) Except where Council approval is required, decisions of the City Clerk are final.

3. This By-law shall come into full force effect upon passage.

Read and Passed in Open Council this 22nd day of March, 2022


_____ Deputy Mayor


_____ Clerk

Policy Regarding the Use of Municipal Resources During an Election Campaign Period

Policy Statement

This policy sets out provisions for the use of City of Greater Sudbury resources during a Campaign Period for municipal, provincial, and federal Elections.

This policy allows the City to balance the need for freedom of expression and assembly of Candidates and its legal responsibility to ensure that all Candidates, Registered Third Parties or Political Parties are treated fairly and equitably.

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. This policy does not preclude a sitting Member of Council from performing their duties as Elected Officials, nor does it inhibit them from representing the interests of their constituents.

Elected Officials who are also Candidates should draw strong boundaries between the two roles and any potential conflicts between the roles should be resolved in favour of the public interest.

Purpose

Legislation prohibits the City from contributing Corporate Resources to a Candidate, Registered Third Party, or Political Party in any form during a Campaign Period and prohibits a Candidate or a Registered Third Party from accepting a contribution from a person who is not entitled to make one.

As campaign contributions may take the form of money, goods and services, any use of Corporate Resources for an Election-related purpose by a Member of Council, Candidate, Registered Third Party, Political Party or Employee is prohibited.

The *Election Finances Act* and the *Canada Elections Act* establish and impose similar regulations for Candidates, Political Parties, third parties and trade unions in provincial and federal elections. Section 29(1) of the *Election Finances Act* and Section 363(1) of the *Canada Elections Act* prohibit municipal corporations from contributing to any Candidate, constituency association, nomination contest, leadership contest, or Political Party.

The purpose of this policy is to meet the City's legislative responsibilities under the *Municipal Elections Act, 1996*, the *Election Finances Act*, and the *Canada Elections Act*, by establishing the requirements and restrictions related to campaign finances, the use of Municipal Resources and municipal contributions to Election campaigns.

Application

This policy applies to all Candidates and potential Candidates, potential and Registered Third Parties, any person acting on behalf of a Candidate or Registered Third Party (Designated Agents), Members of Council and to CGS staff.

Definitions

Candidate means any individual who has filed nomination papers with the Clerk in accordance with section 33 of the *Municipal Elections Act, 1996* or with a Returning Officer in accordance with Section 27.1 of the *Election Act*, or Part 6 of the *Canada Elections Act*.

Campaign Activity means any action that promotes or opposes any Candidate or a response to any question on a ballot or referendum and includes any display, posting or distribution of Campaign Material.

Campaign Material means any material, regardless of format or medium, that promotes or opposes any Candidates or a response to any question on a ballot or referendum and includes but is not limited to, printed literature, banners, posters, pictures, buttons, clothing, signs, magnets, and vehicle decals.

Campaign Period – Candidates means:

- In the case of a Municipal and School Board Election or By-Election, the campaign period as defined in the *Municipal Elections Act, 1996*; and,
- In the case a provincial or federal election or by-election, the date the writ is issued until Voting Day.

Campaign Period – Registered Third Party means the campaign period as defined in the *Municipal Elections Act, 1996*.

Clerk means the Clerk of the City of Greater Sudbury or their designate.

City Council means the Council of the City of Greater Sudbury.

City of Greater Sudbury means the municipal corporation of the City of Greater Sudbury (City).

City Hall means the Tom Davies Square Complex, which includes the buildings at 200 Brady Street, 190 Brady Street, 199 Larch Street and their surrounding grounds.

Corporate Resource means any physical, intellectual or financial asset owned, leased or otherwise controlled by the City and includes, without limitation, facilities, vehicles, equipment, technology, supplies, services and employees.

Designated Agent means any person acting on behalf of a Candidate or Registered Third Party.

Election means a municipal, school board, provincial or federal election, or by-election, held in accordance with the *Municipal Elections Act*, the *Election Act*, or the *Canada Elections Act*.

Election Activity means any election-related session, event or activity hosted by or at the direction of the Clerk, their designate or a Returning Officer appointed under Section 7(1) of the *Election Act*, or Section 24(1) of the *Canada Elections Act*.

Election Sign shall refer to the meaning as described in By-law 2021-111, being a by-law of the City of Greater Sudbury to Regulate the Erection of Signs and Advertising Devices, as may be amended or replaced from time-to-time.

Employee means for the purposes of this policy all full-time or part-time employees of the City.

Facility means any land, building or other structure, owned, leased, operated, or otherwise controlled by the City, other than a City road, and includes City Hall, administrative offices, operation centres, libraries, community and recreation centres, parks, trails, sports fields and open space.

Political Party means an organization one of whose fundamental purposes is to participate in public affairs by endorsing one or more of its members as Candidates and supporting their election.

Registered Third Party means an individual, corporation or trade union registered in accordance with section 88.6 of the *Municipal Elections Act*.

Technology includes, without limitation, computers, servers, cell phones, smart phones, telephones, tablets, printers, scanners, copiers, email, file storage, voicemail, social media or any other equipment or technology, controlled, leased, or owned by the City.

Provisions

1.0 Access to City Facilities during the Campaign Period

- 1.1** Candidates, Registered Third Parties, Political Parties, or their Designated Agents are not permitted to conduct Campaign Activity at City Hall. Campaign Materials may not be erected, displayed, or distributed at City Hall. Campaign materials may be distributed on public right of ways.

City Facilities that permit public rental of space, with the exception of City Hall and other facilities being used to assist with voting or as a voting location, may be rented in accordance with municipal agreements and current rates and fees for Campaign Activity provided that the rental is available to all Candidates and Registered Third Parties subject to the following:

- a. Campaign Material will be set up and removed within the allotted rental period.
- b. Campaign Material may only be displayed within the rented area designated on the rental agreement.

1.2 At the discretion of the Clerk, the City may host information sessions at City Facilities, including City Hall for education purposes provided that the session is open to all Candidates and that no particular Candidate or Registered Third Party, or Political Party is promoted, supported or opposed at the event.

1.3 Canvassing or 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".

2.0 Access to Technology Related Resources during the Campaign Period

2.1 Candidates, Registered Third Parties and Members of Council may not use any City Technology for any Campaign Activity.

2.2 The City's voice mail and email systems, and social media shall not be used for Campaign Activity.

2.3 Where an incumbent Member of Council receives Campaign Activity-related communications through the City's voicemail system or computer network, the Member of Council shall only provide the individual with campaign related contact information.

3.0 Access to Communication Related Resources during the Campaign Period

3.1 The City's logo, crest and slogans may not be printed, posted, or distributed on any Campaign Materials or included on any Election-related website, except to link to the City's website to obtain information about the Municipal Election.

3.2 Candidates may not post photographs of themselves with Employees wearing a uniform, badge, crest or any other item that identifies them as an employee of the City of Greater Sudbury.

3.3 Photographic or video materials that have been or may be created by City Employees or with Corporate Resources may not be used for Campaign Activity or in any Campaign Material.

3.4 Websites, domain names or corporate email addresses that are created, owned or funded by the City shall not include any Campaign Material, links to sites that feature Campaign Material, and may not be re-designated for campaign purposes or provide a link to a campaign site.

3.5 Domain names, websites that are created, owned, or funded by the City shall not include any Campaign Material, refer to and identify any individual as a Candidate, Registered Third Party, Political Party or contain any slogan or symbol associated with a Candidate, Registered Third Party or Political Party.

- 3.6 The online listing of Candidates administered by the Clerk shall be the only area of the City's website where Candidate information will be posted.
- 3.7 Links to the City's website from a Candidate's website are permitted only for the purpose of providing information about the Election or municipal programs and services.
- 3.8 Members of Council are responsible for ensuring that any communication material, printed, hosted, or distributed by the City on their behalf does not contain any Campaign Material.
- 3.9 Candidates and Registered Third Parties shall not print or distribute any Campaign Material using municipal funds. The City will not distribute material if it is determined to constitute Campaign Activity.
- 3.10 No advertising paid for by the City shall contain the name of a Councillor or the Mayor unless consistent with their duties as an Elected Official.
- 3.11 In a Municipal Election year, Council Members' budgets shall not be used to sponsor any advertisements, flyers, newsletters, or householders from the day nominations for the Election may be filed up to and including Voting Day.

4.0 Access to City Information during the Campaign Period

- 4.1 Information provided to a Candidate or Registered Third Party that is of a general nature and may provide valuable guidance to all others will be provided to all Candidates and Registered Third Parties by posting the information to the City's website or through other mechanisms to ensure equal access to information.
- 4.2 Requests by a Candidate or Registered Third Party for personal meetings with City Employees, as well as requests for tours of City facilities may not always be accommodated due to resources and time constraints. If a meeting or tour is organized, the department must commit to organizing a similar meeting or tour for all other Candidates or Registered Third Parties.
- 4.3 City databases, with the exception of those specifically made for the use of Candidates and Registered Third Parties, may not be used for Campaign Activity unless the database has been released for public use.

5.0 Attending City Events during the Campaign Period

- 5.1 Candidates and Registered Third Parties are permitted to attend City events, or events held at City facilities, in their capacity either as elected representatives or as private citizens during the Campaign Period but may not conduct any Campaign Activity while in attendance. No election signs may be posted and no Campaign Materials may be disseminated at City events.
- 5.2 Members of Council remain Elected Officials until the new term of council begins, and as such are permitted to attend City-organized events or events held at City facilities and act as ceremonial participants in their capacity as Elected Officials, during the Campaign

Period. This includes, speaking at the event and partaking in ceremonial activities, however, they may not conduct any Campaign Activity or distribute any Campaign Materials at these events. In provincial or federal elections, once the writ has been issued, Members of Provincial Parliament and Members of Parliament, with the exception of Ministers of the Crown are no longer Elected Officials and therefore should not be invited to attend City events.

6.0 Restrictions to Services Provided to Members of Council After Nominations Open in an Election Year

6.1 Members of Council may also be Candidates in a Municipal Election. After the day nominations open in the year of the Municipal Election, the City will discontinue the following activities for Members of Council, regardless of whether they are seeking re-election:

6.1.1 All forms of advertising and communication, including municipal publications and social media accounts, that are paid for by the City or operated and distributed by the City, will cease referencing the name or image of a Member of Council.

6.1.2 There will be no reference to the name of a Member of Council on any signage for City events, including banners and posters.

6.1.3 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 a Municipal Election Campaign Period, it will refer to the generic term "Councillor for Ward XX" or "Mayor of the City of Greater Sudbury" without naming the specific Member of Council.

7.0 Employee Provisions

7.1 Employees engaged in political activities must take care to separate those personal activities from their official positions. Employees may participate in political activity at the federal, provincial and municipal levels provided that such activity does not take place during working hours or does not use Corporate Resources. Notices, posters or similar material in support of a particular Candidate, Registered Third Party or Political Party are not to be produced, displayed or distributed by Employees at City Facilities.

7.2 Employees shall not canvass or actively work in support of a Candidate, Registered Third Party or Political Party during working hours unless they are on a leave of absence without pay, in lieu time, flex day or vacation leave.

7.3 Employees shall not canvass or actively work in support of a Candidate, Registered Third Party or Political Party while wearing a uniform, badge, logo or any other item identifying them as an employee of the City, or using a vehicle owned or leased by the City.

7.4 The Employee Handbook governs political involvement and activity, and Employees should reference this information in making decisions regarding their participation in any election campaign.

7.5 Employees are expected to promote the principles of transparency, impartiality, respect and accountability in all election-related matters.

Limitations

Nothing in this Policy will preclude the Clerk or their designate from performing their statutory duties, restrict them from distributing information respecting Election activities, or undertaking actions that assist residents in exercising their right to vote.

References

Municipal Elections Act, 1996
Election Finances Act, R.S.O. 1990, c.E.7
Canada Elections Act, S.C. 2000, C.9
City of Greater Sudbury Sign By-law 2021-111