2022 Third Party Advertisers' Guide

Ontario

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This guide provides information to those who want to register as third party advertisers for the 2022 municipal council and school board elections. The information also applies to any by-elections that may be held during the 2022-2026 council and school board term.

This guide is not meant to replace provincial legislation. It provides general information about the rules contained in the *Municipal Elections Act, 1996* and other legislation and regulations, such as:

- *Municipal Act, 2001*
- *City of Toronto Act, 2006*
- *Education Act*

General information

The *Municipal Elections Act, 1996* sets out a framework of rules for third party advertising.

This guide provides information about who can register to be a third party advertiser, what registration allows them to do, and the rules that third party advertisers must follow.

Contact us

If you have further questions or would like to give feedback on this Guide, please contact us at mea.info@ontario.ca.

You can also contact your regional Municipal Services Office at the Ministry of Municipal Affairs and Housing.

The municipal clerk

Every municipality has a municipal clerk who is in charge of running the election.

The municipal clerk is the main contact for registered third party advertisers and those who are interested in becoming registered.

Third party advertisers must file any election forms, such as the registration form and campaign financial statements, with the municipal clerk.

The clerk is also responsible for providing information about spending limits and filing deadlines to third party advertisers.

If your municipality does not have a website, you could visit or contact your municipality's offices for more information.

A municipality may have specific rules regarding issues such as where and when election signs may be displayed and whether third party advertising activities may occur on municipal property.

Contact your municipal clerk if you have questions about the election in your municipality.

Emergency declaration by the clerk

If the municipal clerk believes that circumstances have arisen that prevent the election from being conducted appropriately, they may declare an emergency. This declaration is specific to the election and separate from an emergency that may be declared by the municipality or the province.

Once the clerk has declared an emergency, they can decide what arrangements to make to allow the election to proceed appropriately. The arrangements that the clerk makes will depend on the nature of the emergency.

If your municipal clerk has declared an emergency in relation to an election or by-election in your municipality, you should contact the clerk for information about the arrangements that they have put in place and how those arrangements may affect voting and campaigning.

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Third party advertising

Third party advertising refers to advertisements or other materials that support, promote or oppose a candidate, or support, promote or oppose a “yes” or “no” answer to a question on the ballot. The meaning of “third party” in this context means a person or entity who is not a candidate.

Third party advertising is separate from any candidate’s campaign, and must be done independently from a candidate. Any advertisements or materials that are made and distributed by a candidate, or under a candidate’s direction, are part of the candidate’s campaign.

Third party advertising is a way for those outside of the candidate’s campaign to express support of or opposition to candidates (or a “yes” or “no” answer to a question on the ballot) and to try to persuade voters to vote a certain way.

A third party advertisement is an advertisement in any broadcast, print, electronic or other medium that promotes, supports or opposes a candidate, or a “yes” or “no” answer to a question on the ballot. Advertisement includes traditional ads as well as materials such as brochures or signs.

Third party advertisement

Activities that do not involve spending money, such as discussions or expressing an opinion about a candidate (or an answer to a question on the ballot) are not considered to be third party advertising. Examples include:

- speaking to friends and neighbours
- posting on social media, such as Twitter, Facebook or Instagram
- sending an email to a group or mailing list

Internal communications from an employer to their employees, a corporation to its shareholders, directors, members or employees or by a trade union to its members or employees are not considered to be third party advertising.

Advertising about an issue, rather than a candidate or a “yes” or “no” answer to a question on the ballot is not considered third party advertising. For example, signs saying “Support local businesses” or “Keep the waterfront green” would not be third party advertising, even if a candidate has made those issues part of their campaign.

Advertising period

The *Municipal Elections Act, 1996* sets out a restricted period for third party advertising. This restricted period runs from May 1 in the year of the election to the close of voting on voting day. For the 2022 election, the restricted period is May 1, 2022 to the close of voting on October 24, 2022.

Candidates can begin filing their nominations on May 1. If any individual or group wanted to spend money before May 1 on signs or advertisements supporting someone who intended to become a candidate, or someone who they hoped would become a candidate, the third party advertising rules would not apply. However, once the restricted period begins on May 1, any signs or other advertisements would have to be taken down or discontinued.

Who can be a third party advertiser

Only those who have registered can spend money on third party advertising. The following are eligible to register as a third party advertiser:

- any person who is a resident in Ontario
- a corporation carrying on business in Ontario
- a trade union that holds bargaining rights for employees in Ontario

If two or more corporations are owned or controlled by the same person or people, or if one corporation controls another, they are considered to be a single corporation. If the same person or people own or control multiple corporations, only one of those corporations may register to be a third party advertiser in a municipality.

There is no restriction against family members or campaign staff of candidates registering to be third party advertisers. However, third party advertising must be done independently of the candidate. If a person with close ties to a candidate wants to register they should consider how these activities may look to the public and how they would be able to demonstrate that they were not working in co-ordination with the candidate.

Who cannot be a third party advertiser

A candidate running for any municipal council or school board office cannot register to be a third party advertiser in any municipality.

Groups, associations or businesses that are not corporations are not eligible to register and may not spend money on third party advertising in municipal elections. For example, neighbourhood associations, clubs or professional associations cannot register and cannot make contributions to third party advertisers. Members may register as individual third party advertisers and may contribute individually.

Candidates in the provincial election cannot register. They may register after the provincial election, when they are no longer candidates.

Federal and provincial political parties cannot register to be third party advertisers. Political parties are not permitted to be financially involved in municipal elections.

Registration

An individual, corporation or trade union must register with the municipal clerk to be a third party advertiser in a municipality. Third party advertisers can register in any lower-tier or single-tier municipality (city, town, township, etc.). Third party advertisers cannot register in an upper-tier municipality (a region or county).

Being registered in a municipality allows the third party advertiser to advertise to the voters in that municipality. A third party advertiser can support or oppose any candidate or candidates who will be voted on by the people in that municipality. This includes candidates running for local council, school trustee and candidates running for offices on an upper tier council.

Third party advertisers do not need to decide before they register which candidate or candidates they want to support or oppose, and they do not have to tell the clerk what their intentions are.

A third party advertiser can only advertise to voters in the municipality where they are registered. There is no limit on the number of municipalities where a third party advertiser can register. If a third party advertiser wants to advertise to voters in more than one municipality they must register in each municipality where they want to advertise.

For example, if a third party advertiser wanted to advertise for or against a candidate running for an office that is voted on by people in more than one municipality, such as a school trustee or regional chair, they would need to register in each municipality.

Deadline to register

An individual, corporation or trade union can register to be a third party advertiser beginning on May 1, 2022, and can file a registration until the close of business on Friday, October 21, 2022. As May 1 is a Sunday, you may not be able to file your registration until May 2, 2022 when the clerk's office is open.

Where to register

Clerks can decide to allow registrations to be filed electronically. If your municipality allows electronic filing, contact the clerk for more information about how to register.

If electronic filing is not allowed in your municipality, an individual or a representative of a corporation or trade union must file a Notice of Registration (Form 7) with the municipal clerk in person or by an agent. It must have an original signature – the form may not be a copy and may not be scanned and submitted electronically. There is no registration fee.

The municipal clerk must be satisfied that that the individual, corporation or trade union is eligible in order to certify the registration and may require that identification or additional documents be provided.

A person who is filing as the representative of a corporation or a trade union should make sure that they can provide proof that they are authorized to act on the corporation or trade union's behalf.

The clerk must certify your registration in order for you to begin your campaign as a registered third party advertiser.

Changing your mind

Withdraw your registration

If you want to end your advertising campaign before voting day, you can withdraw your registration by notifying the clerk in writing. The deadline to withdraw your registration is:

- the Friday before voting day for a regular election
- the last day the clerk's office is open prior to voting day for a by-election

Become a candidate

If you are a registered third party advertiser and decide to become a candidate instead, your third party advertising campaign automatically ends when the clerk receives your nomination to become a candidate.

You must keep your advertising campaign separate from your candidate campaign. This means:

- you cannot transfer any contributions or expenses from your advertising campaign to your candidate campaign
- you must file a financial statement for your advertising campaign
- you must file a separate financial statement for your candidate campaign.

For more information about running for office, please see the Candidates' Guide.

Registering in more than one municipality

If a third party advertiser registers in more than one municipality, each of those registrations is considered to be a separate advertising campaign. Once the third party advertiser registers, they must keep each advertising campaign separate, and ensure that they follow the rules in each municipality where they are registered:

- The identification required on signs, advertisements and other materials must indicate that the third party advertiser is registered in that municipality.
- There must be a separate bank account for each campaign.
- Contributions may not be shared between the advertising campaigns – if a contributor has given money to the advertising campaign in municipality A, that money cannot be used to fund expenses in municipality B.
- If the third party advertiser wants to use the same signs or the same advertisement in more than one municipality, the separate advertising campaigns can produce a "joint"

advertisement. The advertisement would indicate that the third party advertiser is registered in both municipality A and municipality B, and each advertising campaign would pay for its share of the expense for the advertisement.

- The third party advertiser must file a separate financial statement in each municipality where they were registered. The financial statement must reflect the financial activities relating to advertising in that municipality.

Responsibilities of registered third party advertisers

Third party advertisers are required to follow many of the same financial and reporting rules as candidates.

Unlike candidates, third party advertisers cannot appoint scrutineers to observe the voting, or to be present when votes are counted.

Identification on advertising

A third party advertiser must provide the following information on all of its advertisements, signs and other materials:

- the legal name of the registered third party advertiser (if the third party advertiser is a corporation or trade union, the name of the corporation or trade union must appear, not the name of the representative who filed the registration)
- the municipality where the third party advertiser is registered
- a telephone number, mailing address or email address where the third party advertiser can be contacted

A registered individual cannot act on behalf of a group or organization that is not eligible to register as a third party advertiser. For example, if Chris Smith is the president of a business improvement association (BIA), the signs and materials must identify Chris Smith as the person responsible for the advertising, not the BIA.

If ads are going to be broadcast or published (for example, on a radio station or in a newspaper), the ad must contain the information required above, and the third party advertiser must also provide the broadcaster or publisher with the following:

- the name of the registered third party advertiser
- the name, business address and telephone number of the individual who deals with the broadcaster or publisher under the direction of the registered third party advertiser
- the municipality where the third party advertiser is registered

Any additional content of signs is not regulated under the act.

Sign bylaws

A municipality may have rules in place about when signs can be put up, and how signs may be displayed on public property.

If you plan to reuse signs from the last election, you should be aware of rules on the use of leftover advertising campaign inventory (page 15).

The third party advertiser is responsible for removing their signs after voting day. The municipality may require a sign deposit or have penalties for failing to remove signs. Contact the municipal clerk for more information.

Advertising on voting day

The *Municipal Elections Act, 1996* does not prohibit campaigning or advertising on voting day. While there are restrictions on advertising for federal and provincial elections on voting day, these “blackouts” do not exist for municipal council and school board elections.

The Act prohibits campaign material in a voting place. The voting place could include the entire property of a building that has a voting place inside it, including the parking lot. A third party advertiser is not allowed to have brochures, buttons, signs or any other advertising material in the voting place.

Wrapping up the advertising campaign

After voting day, the third party advertiser must remove any signs or other advertisements that have been put up, including online ads.

Usually, advertising campaigns must end on December 31. However, since December 31, 2022 is a Saturday, the deadline moves to January 3, 2023. The advertising campaign must end on January 3, 2023, unless it has a deficit and the third party advertiser informs the clerk in writing that they are going to extend their campaign. Once the campaign has ended, the third party advertiser should close the designated bank account and prepare the financial statement.

Financial statements must be filed with the clerk by 2 p.m. on Friday, March 31, 2023.

Finance rules

Third party advertising campaign

This guide refers to activities related to third party advertising as the “advertising campaign”.

Record keeping

Every third party advertiser is responsible for keeping financial records related to their advertising campaign. The *Municipal Elections Act, 1996* does not require that third party advertisers use any specific accounting system. A third party advertiser may want to consult with an auditor or an accountant to make sure that they are using a bookkeeping and accounting system that will suit their needs.

The third party advertiser should also look through the financial statement (Form 8) that they will be required to file to make sure that they are keeping records of all the information that must be included on the statement.

Every third party advertiser is required to keep all of their advertising campaign financial records until November 15, 2026 when the next council or school board takes office.

A third party advertiser must keep the following advertising campaign records:

- the receipts issued for every contribution including when the contribution was accepted and the date the receipt was issued (receipts must also be issued to the third party advertiser for any contributions made to their own advertising campaign)
- the value of every contribution, whether it is money, goods or services, and the contributor’s name and address
- all expenses, including the receipts for each expense
- any claim for payment of an expense that the third party advertiser disputes or refuses to pay
- the funds raised and expenses incurred from each separate fundraising event or activity
- the terms of any loan received from a bank or other recognized lending institution

Advertising campaign period

A registered third party advertiser can only accept contributions or incur campaign expenses during their advertising campaign period.

The advertising campaign begins on the day the clerk certifies the registration of an individual, corporation or trade union to be a third party advertiser. Third party advertisers can register beginning on May 1, 2022 until the close of business on Friday October 21, 2022.

As the advertising is meant to influence voters, there is little point in continuing to advertise after voting day. However, the advertising campaign period runs until January 3, 2023. This extra time can be used to accept contributions if the advertising campaign has not paid for all of its expenses.

If a third party advertiser is certain that they will not have any more financial activity after voting day, they can end their advertising campaign at any time between voting day and January 3, 2023.

Bank account

Every third party advertiser must open a bank account exclusively for the advertising campaign.

An individual cannot use an existing personal bank account for advertising campaign finances, even if they are planning a very small advertising campaign. A corporation or trade union may not use an existing account.

All contributions – including contributions that the third party advertiser makes to itself – must be deposited into the third party advertising campaign bank account. All expenses must be paid for from the campaign account.

Contributions and advertising campaign income

Contributions

Contributions are any money, goods or services that are given to a third party advertiser for use in the advertising campaign, including money and goods that the third party advertiser contributes to their own campaign.

If a third party advertiser sells tickets to a fundraising event, the cost of the ticket is considered a contribution.

If a third party advertiser obtains a loan from a bank or other recognized lending institution and guarantees the loan, and the advertising campaign is unable to repay the full amount, any unpaid balance is considered to be a contribution by the guarantor. If the third party advertiser is an individual, either they or their spouse may guarantee a loan.

Things that are not contributions

The value of volunteer labour (for example, if a team of volunteers helps to put up signs) is not considered to be a contribution.

A cash donation of $25 or less received at a fundraising event is not considered to be a contribution, and the third party advertiser may accept such donations without keeping track of who gave them. The total amount of money received from these donations must be reported on the financial statement.

If the third party advertiser obtains a campaign loan from a bank or a recognized lending institution, the amount of the loan is not considered to be a contribution.

Who can contribute

A third party advertiser can accept contributions from:

- any person who is a resident of Ontario
- corporations carrying on business in Ontario
- trade unions that hold bargaining rights for employees in Ontario

If the registered third party advertiser is an individual, and their spouse is not normally resident in Ontario, the spouse can still make contributions to the third party's advertising campaign. They may not make contributions to any other registered third party advertiser, or to any candidates.

Groups such as clubs, associations or ratepayer's groups are not eligible to make contributions. The members of these groups may make individual contributions from their personal funds, as long as they are residents of Ontario.

Who cannot contribute

The following are not allowed to make contributions to third party advertising campaigns:

- a federal political party, constituency association, or a registered candidate in a federal election
- a provincial political party, constituency association, or a registered candidate or leadership contestant
- a federal or provincial government, a municipality or a school board.

When can contributions be received

A third party advertiser can only accept contributions once they have registered as a third party advertiser, and cannot accept contributions after the advertising campaign period has finished.

Any contributions received outside the advertising campaign period must be returned to the contributor. If the contribution cannot be returned to the contributor, it must be turned over to the clerk.

Contribution limits

There is no limit on how much a registered third party advertiser (and, if the third party advertiser is an individual, their spouse) can contribute to their own advertising campaign.

There is a $1,200 limit that applies to all other contributions. This amount includes the value of any goods or services donated to the third party advertiser. If an individual, corporation or trade union makes more than one contribution (for example, contributes money, contributes goods, and purchases a ticket to a fundraising event), the total value of all the contributions cannot exceed $1,200.

The maximum total amount that a contributor can give to third party advertisers registered in the same municipality is $5,000.

A contribution must come directly from the contributor – pooling contributions from others and giving them to a third party advertiser is not allowed. If a contribution is made from a joint account, it must be clear which person is making the contribution.

Only a contribution that is $25 or less can be made in cash. All contributions above $25 must be made by cheque, money order, or by a method that clearly shows where the funds came from (such as certain debit, credit or electronic transfer transactions).

Third party advertisers are required to inform every contributor of the contribution limits. Contributors should keep track of their donations to ensure they don't end up giving more than is permitted.

Contribution receipts

Third party advertisers must issue a receipt for every contribution they receive. The receipt should show who made the contribution, the date, and the value. If the contribution was in goods or services, the third party advertiser must determine the value of the goods or services and issue a receipt for the full value.

If a third party advertiser receives a contribution from a joint account, the contribution can only come from one person. The third party advertiser must determine who is making the contribution and issue the receipt to that person.

Third party advertisers are required to list the names and addresses of every contributor who gives more than $100 total to the advertising campaign in their financial statement. The financial statement is a public document.

A third party advertiser should keep a record of the names and addresses of every contributor, regardless of the value of their contribution, because the same contributor may make multiple contributions that end up totalling more than $100.

Contribution receipts are not tax receipts. Contributions to third party advertising campaigns cannot be credited against provincial or federal income taxes.

An easy way for third party advertisers to inform contributors of the contribution limits is to include the contribution limits on the receipt that is given for each contribution.

Review of contributions

The contributions that are reported on third party advertisers' financial statements will be reviewed by the municipal clerk to see if any contributors have given too much.

If the contributions reported on the financial statements show that a contributor gave more than $1,200 to an individual third party advertiser, or if they show that a contributor gave more than $5,000 to third party advertisers registered in the same municipality, the clerk will report this to the compliance audit committee. The compliance audit committee will hold a meeting and determine whether the municipality will begin court proceedings against the contributor.

Returning ineligible contributions

Third party advertisers are required to return any contribution that was made or accepted in contravention of the *Municipal Elections Act, 1996* as soon as they learn that it was an ineligible contribution. If the contribution cannot be returned, it must be turned over to the clerk.

Contributions should be returned or paid to the clerk if the contribution is:

- made outside the campaign period
- from an anonymous source (except for donations of $25 or less at a fundraising event)
- from an ineligible source (someone who doesn't live in Ontario, a business that is not a corporation, etc.)
- greater than the $1,200 individual limit or the $5,000 total limit
- a cash contribution greater than $25
- from funds that do not belong to the contributor who gave them

Unused contributions

If the advertising campaign ends with a surplus, the third party advertiser can withdraw the value of contributions that they made to their own campaign. If the third party advertiser is an individual, they can also withdraw the value of contributions made by their spouse. If there is still a surplus once these contributions have been withdrawn, it must be turned over to the clerk.

A third party advertiser cannot refund any other unused contributions.

Fundraising

Fundraising functions are events or activities held for the primary purpose of raising money for a third party's advertising campaign.

If a third party advertiser has created brochures or other advertising materials that include a sentence asking people to make a contribution or providing information about how to contribute, this would not be a fundraising brochure since its primary purpose is to persuade voters to vote a certain way, not to raise money.

Fundraisers can only be held during the advertising campaign period. Third party advertisers must record the gross income, including ticket revenue and other revenue, and the expenses related to each event and activity on their campaign financial statement.

If tickets are sold to the event, the ticket price is considered to be a contribution to the advertising campaign and a receipt must be issued to each person who purchases tickets. If the ticket price is higher than $25, tickets cannot be paid for in cash.

Advertising campaign income

If funds are raised by selling goods or services for more than fair market value, the difference between the fair market value and the amount paid is considered to be a contribution. If the good or service is sold for $25 or less, the amount paid is considered advertising campaign income that is not a contribution.

Advertising campaign expenses

Expenses

Advertising campaign expenses are the costs that are incurred during the campaign. These include costs directly related to producing, distributing or publishing advertisements, as well as indirect costs such as hiring someone to keep track of contributions and issue receipts.

Goods and services that are contributed to the advertising campaign are also expenses. They should be treated as if the contributor gave the third party advertiser money and the third party advertiser went out and purchased the goods and services at fair market value – both the contribution and the expense must be recorded.

Expenses must be paid from the advertising campaign bank account. If a credit card is used to pay for purchases, the third party advertiser should keep clear records showing that the expense on the credit card was reimbursed from the campaign account.

Any taxes such as HST paid on purchases should be included in the amount of the expense.

Third party advertisers can only incur expenses during their advertising campaign period, except for expenses related to the preparation of an auditor's report. If a third party advertiser is required to include an auditor's report with their financial statement, they may incur these expenses after the advertising campaign period has ended. These expenses must also be reported on the financial statement.

Spending limits

The general spending limit for a third party advertiser's advertising campaign is calculated based on the number of electors who are eligible to vote in the municipality where the third party advertiser is registered. The formula to calculate the limit is $5,000 plus $0.05 per eligible elector, to a maximum of $25,000.

Examples:

A third party advertiser registered in a municipality with 50,000 electors would have a spending limit of $7,500.

A third party advertiser registered in a municipality with 500,000 electors would have a spending limit of $25,000. $5000 plus $0.05 per elector is $30,000, so the maximum $25,000 applies.

When a third party advertiser registers in a municipality, the clerk will give them an estimate of their general spending limit. This estimate will be based on the number of electors in the last election.

On or before September 25, 2022 the clerk must give a final general spending limit that is based on the number of electors on the voters' list for the current election.

If the initial spending limit estimate is different than the final spending limit received in September, the higher of the two becomes the official spending limit. The clerk will also provide the spending limit for expenses related to parties and other expressions of appreciation.

Types of expenses

While most expenses will be subject to the general spending limit the following expenses are not:

- expenses related to holding a fundraising event or activity
- expenses related to a compliance audit
- expenses incurred by a registered third party advertiser who is an individual with a disability, and the expenses are directly related to the disability and would not have been incurred if not for the election
- audit and accounting fees

Any materials, events or activities must have fundraising as the primary purpose in order to be exempt from the spending limit. An incidental mention of contributions is not enough to qualify as fundraising.

When the general spending limit applies

The spending limit covers expenses that are incurred between the beginning of the advertising campaign (the day the third party advertiser is registered) and voting day. Expenses incurred between the day after voting day and the end of the advertising campaign period are not subject to the spending limit.

If a third party advertiser incurs an expense before voting day, but doesn't get around to paying for it until after voting day, it would still be subject to the spending limit.

Spending limit for parties and expressions of appreciation

There is a separate spending limit for expenses related to holding parties and other expressions of appreciation after the close of voting. This spending limit is calculated as 10% of the amount of the general spending limit.

Example:

A third party advertiser's general spending limit is $20,000. The spending limit for throwing a party on voting night and making expressions of appreciation such as giving gifts to the

members of the advertising campaign team would be $2,000. These expenses do not count toward the $20,000 general spending limit.

Expenses related to parties and expressions of appreciation after voting are subject to the specific spending limit regardless of whether they are incurred before or after voting day.

Leftover advertising campaign inventory

If a third party advertiser registered as a third party advertiser in the last election and wants to reuse leftover goods such as signs or office supplies, the third party advertiser must establish the current market value of the goods — what it would cost to purchase them today. Record the current market value as an expense.

If the third party advertiser has inventory left at the end of their advertising campaign it becomes their personal property. If the third party advertiser wants to store materials such as signs for use in another election, any costs related to storage are personal costs, not advertising campaign expenses.

Note to accountants: The value of all goods must be recorded as an expense regardless of whether the advertising campaign ends with used or unused goods in inventory. Do not deduct the value of unused goods from the campaign expenses, as this will result in the campaign having a surplus on paper that the candidate does not actually have.

Surplus and deficit

If the advertising campaign has a surplus after the third party advertiser has refunded contributions made by the third party advertiser (and, if the third party advertiser is an individual, their spouse), the remaining surplus must be paid over to the clerk when the financial statement is filed. The surplus will be held in trust, and the third party advertiser can use it if they incur expenses related to a compliance audit. If the surplus is not needed for these expenses, it becomes the property of the municipality.

If the advertising campaign expenses are greater than the campaign income, the campaign will be in deficit.

Advertising campaign financial statement

Every registered third party advertiser must file a complete and accurate financial statement on time.

The filing deadline is **2 p.m. on March 31, 2023**.

Third party advertisers must use Form 8 (Do not use Form 4, as that is the financial statement for candidates).

If a bookkeeper or accountant completes the financial statement, the third party advertiser is still responsible for ensuring that it is complete, accurate and filed on time.

Financial statements do not require original signatures. Contact the clerk for information about whether a financial statement can be filed electronically.

If an individual, corporation or trade union registered in more than one municipality, they must file a separate financial statement with each municipal clerk.

If a third party advertiser did not receive any contributions or incur any expenses, they are only required to fill out the first page of the financial statement and sign it.

If a third party advertiser received contributions or incurred any expenses, they must complete the relevant parts of the financial statement.

If the advertising campaign contributions or campaign expenses are greater than $10,000, the financial statement must be audited and the auditor's report included when the financial statement is submitted to the clerk.

Filing early

A third party advertiser can file their financial statement after they have ended their advertising campaign. If a third party advertiser files a statement early and then discovers that there is an error in it, they can submit a corrected statement at any time before the filing deadline on March 31, 2023. The original statement is deemed to be withdrawn when the corrected statement is filed. A third party advertiser cannot withdraw a financial statement without submitting a corrected one.

Applying for an extension

If a third party advertiser will be unable to file the financial statement by the deadline, they may apply for an extension to the Superior Court of Justice before March 31, 2023.

Grace period for filing

If a third party advertiser has not filed a financial statement by the deadline, they may file the financial statement within 30 days after the deadline if they pay the municipality a $500 late filing fee. This 30-day grace period ends at 2 p.m. on Monday, May 1, 2023.

Penalty for filing late

If a third party advertiser has not filed a financial statement by the end of the 30-day grace period and did not apply to the court for an extension prior to the March 31st deadline, the individual, corporation or trade union will not be eligible to register as a third party advertiser in the municipality until after the 2026 election.

If a third party advertiser did not file a financial statement by the end of the 30-day grace period, they may still file it for the purposes of having their finances on the record. The clerk will accept the financial statement and make it available to the public. The penalty will still apply.

Extended advertising campaigns

If the advertising campaign has a deficit, the third party advertiser can extend their campaign in order to do some additional fundraising.

A third party advertiser can extend their campaign by notifying the clerk using the Notice of Extension of Campaign Period (Form 6) on or before January 3, 2023. The end date for the extended period will be the earliest of:

- the day the third party advertiser notifies the clerk in writing that they will be ending their advertising campaign and not accepting any more contributions
- June 30, 2023

If a third party advertiser extends their advertising campaign they must file two financial statements:

- a financial statement reflecting the advertising campaign until January 3, 2023 (due March 31, 2023)
- a supplementary financial statement that includes the information from the primary statement and adds financial information from the extended advertising campaign.

The supplementary financial statement must be filed with the clerk by 2 p.m. on Friday, September 29, 2023. There is also a 30-day grace period for this deadline in which the statement can be filed late provided the $500 fee is paid.

Auditor's report

A third party advertiser must have an auditor review the financial statement and provide a report if any of the following are true:

- the advertising campaign expenses exceed $10,000
- the contributions received exceed a total of $10,000
- both the expenses and contributions exceed $10,000 each

The auditor's report must be prepared by an auditor licensed under the *Public Accounting Act, 2004*. Before a third party advertiser hires someone to prepare the report, they should ensure that the person is properly qualified.

A third party advertiser can incur expenses relating to the auditor's report after January 3, 2023. These expenses do not count toward the spending limit. These expenses should be included on the financial statement that will be filed.

Compliance and enforcement

Enforcement of the *Municipal Elections Act, 1996* is done through the courts. The Ministry of Municipal Affairs and Housing does not have a role in investigating elections or in determining penalties.

Automatic penalties

Under the *Municipal Elections Act, 1996* a penalty applies automatically if:

- a third party advertiser fails to file a financial statement by the end of the 30-day grace period or fails to apply to the court for an extension by the filing deadline
- the financial statement shows that the third party advertiser has exceeded a spending limit
- a third party advertiser fails to turn over their surplus to the clerk when they file their financial statement

The penalty is that the individual, corporation or trade union will not be eligible to register as a third party advertiser in the municipality until after the 2026 election.

Compliance audits

Each municipality and school board must appoint a compliance audit committee.

If an eligible elector believes that a third party advertiser has not followed the election finance rules, the elector may apply for a compliance audit of the third party's advertising campaign finances. The application must be in writing, and must set out the reasons why they believe the third party advertiser did not follow the rules.

An application for a compliance audit must be submitted to the clerk of the municipality where the third party advertiser is registered within 90 days of the deadline to file the advertising campaign financial statement.

The compliance audit committee will consider the application and decide whether to grant or reject the application. The committee's decision may be appealed to the Superior Court of Justice within 15 days after the decision is made.

If the committee grants the application, it will appoint an auditor to conduct a compliance audit of the third party's advertising campaign finances. The auditor is entitled to have access to all of the financial records related to the advertising campaign. The auditor will produce a report, which the third party advertiser is entitled to receive.

The compliance audit committee will meet to consider the auditor's report. If the report concludes that there is an apparent contravention of the *Municipal Elections Act, 1996*, the committee will decide whether to commence legal action.

The compliance audit committee does not have any authority to set penalties. Only the court can decide if a third party advertiser contravened the Act and, if so, which penalties should apply.

A person who does not want to or who is not able to apply for a compliance audit may decide to commence legal action on their own. A prosecution related to the 2022 election must be commenced before November 15, 2026.

Penalties

If a person is convicted of committing an offence, they may be subject to the following penalties:

- a fine of up to $25,000
- up to six months in prison
- ineligibility to register to be a third party advertiser until after the next regular election
- ineligibility to vote or run in the next regular election (in the case of conviction for bribery or other corrupt practices)

If a corporation or trade union is convicted of committing an offence, they may be subject to a fine of up to $50,000, and ineligibility to register to be a third party advertiser until after the next regular election.

If any third party advertiser is convicted of exceeding a spending limit, they may also be fined the amount by which they exceeded the limit.

Completing the financial statement

General information

All third party advertisers must file a financial statement. This includes third party advertisers who withdrew their registration.

Third party advertisers must use Form 8.

All registered third party advertisers must complete Box A: Name of Registrant and Box B: Declaration.

- If the third party advertiser did not receive any contributions or incur any expenses, check the box indicating this, and complete the Declaration in Box B. No further information is required.
- If the third party advertiser did receive contributions or incur expenses, fill in the information in Box C, Box D, Schedule 1, and Schedule 2 as appropriate. It may be easier to fill out the form by starting with the more detailed sections such as the tables in Schedule 1 before filling in the Statement of Campaign Income and Expenses.

If the third party advertiser received contributions or incurred expenses in excess of $10,000, an auditor's report must be included with the financial statement.

The completed financial statement must be submitted to the clerk by **2 p.m. on the last Friday in March (March 31, 2023)**.

Supplementary financial statements must be submitted to the clerk by **2 p.m. on the last Friday in September (September 29, 2023)**.

Tips for completing Form 8

Learn more about how to correctly fill out the advertising campaign financial statement.

Box A: Name of Registrant

Record the general spending limit and the spending limit for parties and other expressions of appreciation.

Note: automatic penalties will apply if the form reports that either of the spending limits have been exceeded.

Box B: Declaration

Signing the form declares that the information recorded in the financial statement is true and accurate. If the financial statement was prepared by someone else, the registrant (or official representative) is still responsible for its accuracy.

Box C: Statement of Campaign Income and Expenses

Loan

If a loan is obtained for the advertising campaign, the name of the bank or recognized lending institution and the amount borrowed must be recorded.

A loan is permitted only if it is from a bank or other recognized lending institution in Ontario, and it must be paid directly into the campaign bank account. A loan cannot be received from family members or from any corporate accounts that the third party advertiser may have access to.

The loan is not considered to be advertising campaign income, and paying it back is not a campaign expense. However, if the third party advertiser (or their spouse, if the third party advertiser is an individual) guarantees the loan and the campaign does not repay all of it, the remaining balance is considered to be a contribution (since the guarantor is basically providing the campaign the means to repay the loan).

Any interest that the advertising campaign pays on the loan is a campaign expense.

Income

A registered third party's advertising campaign income includes all contributions received from themselves as the registrant, their spouse (if the registrant is an individual) and other eligible contributors. This includes the value of contributions of goods and services. Income also includes any refunds of deposits, interest earned by the registrant's campaign bank account, and revenue from fundraising events or activities that is not deemed a contribution (for example, if the third party advertiser sold refreshments at market value).

Sign deposit

If the municipality requires a deposit for election signs, this should be recorded as an advertising campaign expense and paid for using campaign funds. If the registered third party advertiser's deposit is refunded, record the amount under Income.

Expenses

Advertising campaign expenses include the value of any goods or services that have been contributed to their campaign (it is as if the contributor gave money to the campaign, which the campaign then spent on acquiring the goods or services).

The general spending limit applies only to expenses incurred until the end of voting day. Expenses incurred after voting day are not subject to the spending limit.

Note: An expense subject to the general spending limit that was incurred prior to voting day but not paid for until after voting day is still subject to the limit.

Some types of expenses are not subject to the general spending limit even if they are incurred prior to voting day.

Expenses related to parties and expressions of appreciation after voting day are subject to that spending limit regardless of when they are incurred.

Box D: Calculation of Surplus or Deficit

Campaign deficit

At the top of Box D, subtract the total amount of campaign expenses from the total amount of campaign income. If the expenses are greater than the income, the advertising campaign is in deficit.

If the advertising campaign has been extended in order to fundraise, the registered third party advertiser must still file a financial statement reflecting their campaign finances to January 3, 2023.

Campaign surplus

At the top of Box D, subtract the total amount of campaign expenses from the total amount of campaign income. If the income is greater than the expenses, the advertising campaign has a surplus.

The third party advertiser is entitled to reimburse contributions made by the registrant or, if the third party advertiser is an individual, their spouse out of the surplus. For example, if the surplus was $500 and the registrant contributed $400 to their advertising campaign, the third party advertiser may deduct that $400, leaving the campaign with a surplus of $100. If the surplus was $500 and the registrant contributed $600, the third party advertiser may deduct $500 of their contribution, leaving the campaign with $0. The third party advertiser may not deduct more than the value of the surplus.

If, after deducting contributions made by the registrant or their spouse (if the third party advertiser is an individual), the advertising campaign still has a surplus, these funds must be turned over to the clerk.

Schedule 1: Contributions

Schedule 1 includes a summary of contributions from the advertising campaign.

The following tables are included in Schedule 1 and need to be filled in, if applicable:

- Table 1: Contributions in goods or services
- Table 2: Inventory of campaign goods and materials from previous municipal campaign used in this campaign
- Table 3: Monetary contributions from individuals other than registrant or spouse where contributions exceed $100 per contributor
- Table 4: Monetary contributions from corporations or trade unions where contributions exceed $100 per contributor
- Table 5: Contributions in goods or services from individuals other than registrant or spouse where contributions exceed $100 per contributor

- Table 6: Contributions in goods or services from corporations or trade unions where contributions exceed $100 per contributor

Contributions from registrant and spouse

Record these amounts on the lines provided in Schedule 1.

Note: report the full amount of the contributions made by the registrant and their spouse (if the third party advertiser is an individual) including any amounts that have been reimbursed from a surplus.

Contributions totalling $100 or less

Contributors that give $100 or less in total do not have to be individually identified. The total amount contributed from these contributors will be recorded as a lump sum on the line provided at the top of Schedule 1.

If an anonymous contribution is $100 or less, include it in the total value of contributions not exceeding $100 per contributor. Any anonymous contribution that is greater than $25 must be turned over to the clerk.

Goods and services from registrant or (if individual) spouse

If the registrant or their spouse (if the third party advertiser is an individual) contribute goods and services to their advertising campaign, this must be recorded as a contribution. Record any contributions in Table 1 of Schedule 1.

Inventory of campaign goods and materials from previous municipal campaign used in this campaign

Any inventory from a previous advertising campaign that a registered third party advertiser is using again is a contribution in goods that the third party advertiser makes to their campaign. Calculate the current market value (for example, if the third party advertiser has 100 signs left over from 2018 and uses them again, they must calculate how much it would cost to purchase those same signs in 2022) and record it in Table 2. This inventory must also be recorded as an advertising campaign expense.

Contributions totalling more than $100

If a contributor makes one or more contributions totalling more than $100 (including the value of goods and services and the cost of tickets to fundraising events), record all of these contributions in the tables provided in Schedule 1 (Tables 3-6).

If an anonymous contribution is more than $100, include it in the total value of contributions exceeding $100 per contributor, and include it in the relevant table (listing "anonymous" as the name of the contributor). Any anonymous contribution that is greater than $25 must be turned over to the clerk.

Note: it is the total amount contributed that matters – if an individual buys a ticket to a fundraising event for $50, and then later in the advertising campaign contributes $75, each of these contributions must be recorded in the appropriate tables because the total exceeds $100.

Eligible contributors may donate goods and services to the advertising campaign. These must be recorded as a contribution and as an expense (as if the contributor donated money, which the campaign then spent on the goods and services).

Corporations and trade unions are permitted to make contributions to third party advertisers. This includes contributions of goods and services.

Schedule 2: Fundraising Events and Activities

The cost of holding fundraising events or activities is not subject to the spending limit. However, in order to be considered a fundraising cost, the primary purpose for the expense must be related to fundraising rather than promoting the advertising campaign. Incidental fundraising that happens to occur during a promotional event is not sufficient to make it a fundraising event. Similarly, a line at the bottom of an advertising campaign brochure asking people to donate does not make the production of the brochure a fundraising expense.

If costs of fundraising events/activities are included as an expense in Box C, provide details of these events and activities in Schedule 2.

Contributions received at a fundraising event may include:

- the price of the ticket
- if goods or services are offered for sale, any amount of money paid that exceeds their market value (for example, if a $100 item is sold for $175, the purchaser has made a $75 contribution to the campaign)
- personal cheques collected from contributors at the event

If contributors have donated goods or services for the fundraising event, these must be recorded as contributions and as expenses.

These contributions must be recorded in Schedule 1, and where the total from a contributor exceeds $100, be detailed in the appropriate tables. Refer to Schedule 1: Contributions (page 22) for more information.

The fundraising event may also generate revenue that is not considered to be a contribution:

- donations of $25 or less
- if goods or services are offered for sale, the market value of those goods and services sold (for example, if a $100 item is sold for $175, $100 is revenue)
- the amount paid for goods or services offered for sale for $25 or less

Anonymous contributions

Anonymous contributions that do not exceed $25 each that are received at a fundraiser (such as those collected by passing the hat or having a tip jar) may be kept. Report the total amount of money received from these donations in Schedule 2 for that fundraiser.

All other anonymous contributions must be turned over to the clerk.

Subtract the contribution as paid or payable to the clerk to arrive at the Total for Part II Contributions in Schedule 2.

Auditor's report

If your advertising campaign expenses or the contributions you received total more than $10,000 you must have an auditor review your financial statement and provide a report.

The auditor's report must be prepared by an auditor licensed under the *Public Accounting Act, 2004*. Before you hire someone to prepare the report, you should ensure that they are properly qualified.

Where to find forms referred to in this guide

You can get copies of forms from your municipal clerk, or you can download them from the Government of Ontario's Central Form Repository.

- Financial Statement – Subsequent Expenses (Form 5)
- Notice of Extension of Campaign Period (Form 6)
- Notice of Registration – Third Party (Form 7)
- Financial Statement – Auditor's Report – Third Party (Form 8)

Information for broadcasters and publishers

Broadcasters and publishers have responsibilities related to the campaign advertisements of candidates and third party advertisers. The campaign period begins on May 1 and ends on January 3, 2023.

Advertisements by candidates or third party advertisers

If a candidate is advertising, you must collect in writing the:

- candidate's name
- name, business address and telephone number of the individual who deals with the broadcaster or publisher under the direction of the candidate (Note: this individual may be the candidate themselves)

If a registered third party is advertising, you must collect in writing the:

- name of the registered third party advertiser (note: this may be the name of an individual, a corporation, or a trade union)
- municipality where the third party advertiser is registered
- name, business address and telephone number of the individual who deals with the broadcaster or publisher under the direction of the registered third party advertiser

You must not broadcast or publish any campaign advertising without recording this information.

Broadcasters and publishers must maintain records of:

- the information collected in writing
- a copy of the advertisement (or the means of reproducing the advertisement for inspection)
- a statement of the charge made for its appearance

These records must be kept for four years after the date the advertisement appears. Broadcasters and publishers must allow the public to inspect the records.

Third party advertising is restricted from the start of the campaign period on May 1 until the close of voting on October 24, 2022. Broadcasters and publishers are not required to collect information or retain records for advertisements that appear before May 1.