

Election Advertising
Election Act Part 11**Q: What is election advertising?**

- A:** Election advertising is the transmission, by any means, of an advertising message to the public that:
- is transmitted during the period that begins 60 days before a campaign period and ends at the close of voting for the election, and
 - promotes or opposes, directly or indirectly, a registered political party or the election of a candidate.

This includes taking a position on an issue with which a candidate or a political party is associated.

The definition of election advertising is broad and in some cases it can be difficult to determine if an item or activity is election advertising. Election advertising certainly includes signs, posters, leaflets, billboards, brochures and advertisements in newspapers, magazines, newsletters and on television, radio and the internet.

Q: What does election advertising not include?

- A:** Election advertising does not include:
- news, an editorial, an interview, a column, a letter, a debate, a speech or a commentary published without charge in a bona fide periodical or on a radio or television program
 - the distribution or promotion of a book for no less than its commercial value, if the book was planned to be made public regardless of whether there was to be an election
 - documents sent by a person or a group directly to their members, employees or shareholders
 - the transmission by an individual of their personal political views, on a noncommercial basis on the internet, or by telephone or text messaging

Personal social networking pages and blogs are generally not election advertising, unless they are created to promote or oppose a candidate or a registered political party, or the blogger is operating their site on a commercial basis. If they are, the sponsor of the content must be registered with Elections BC.

Q: What is third party advertising?

- A:** Election advertising not sponsored by, or on behalf of, a registered political party, registered constituency association or candidate is third party advertising.

In contrast, sponsoring or conducting election advertising on behalf of a candidate, registered political party or registered constituency association is not third party advertising, but an election expense of the candidate or registered political party.

Q: What do I need to know if I want to sponsor third party advertising?

A: Third party election advertising sponsors must register with the Chief Electoral Officer prior to sponsoring any election advertising. Anyone who is not registered cannot sponsor election advertising. If you wish to become a registered sponsor you must file an application with the Chief Electoral Officer.

The total value of election advertising sponsored by a third party advertiser during a campaign period can be no more than:

- \$3,000 in relation to one electoral district, and
- \$150,000 in the province overall.

These limits apply only during the campaign period that begins on the day the election is called and ends at the close of voting on General Voting Day.

Third parties must also identify the name of the sponsor on all election advertising, as well as a mailing address or telephone number at which the sponsor may be contacted regarding the advertising. For example:

Authorized by Jane Doe, registered sponsor under the Election Act, 604 123-4567
Authorized by ABC Ltd. registered sponsor under the Election Act, 250-987-6543

Q: Is advertising prohibited on General Voting Day?

A: It depends on the type of advertising. On General Voting Day, most election advertising must not be published, broadcast or transmitted to the public.

An individual or organization must not sponsor, or agree to sponsor election advertising that is, or is to be conducted on General Voting Day by publishing it in a newspaper or magazine, on radio, television or on the internet, whether the publication is done within British Columbia or outside of British Columbia.

This restriction does not apply to:

- a notice of an event the leader of a registered political party plans to attend
- an invitation to meet or hear the leader of a registered political party
- a message transmitted to the public on the internet before General Voting Day that is not changed before the close of voting
- the distribution of pamphlets, or the posting of signs, posters or banners, except within 100 metres of the building where the District Electoral Office is located or within 100 metres of a building where voting is being conducted (i.e., within 100 metres of a building that contains a voting place).

Q: Are campaign signs allowed to be displayed now?

A: Under the *Election Act*, signs can be displayed now but contact your local municipality as there may be local by-laws on when campaign signs can be erected.

Q: I live in an apartment and would like to put a campaign sign in my window. Is this allowed?

A: Yes. Landlords cannot prohibit tenants from displaying election advertising posters in their apartments. However, landlords can set reasonable conditions on the size and type of posters that can be displayed and prohibit posters from being displayed in common areas.

Also, the *Election Act* prohibits the placement of election advertising signs within 100 metres of the building where the District Electoral Office is located or within 100 metres of a building where voting is being conducted (i.e., within 100 metres of a building that contains a voting place).

Q: I live in a condo and would like to put a sign on the front lawn. Is this allowed?

A: Each strata corporation has its own by-laws. Although a strata corporation must not prohibit owners or tenants from displaying election advertising posters in their units, strata corporations can set reasonable conditions on the size and type of posters that can be displayed and prohibit posters from being displayed in common areas of the building.

Also, the *Election Act* prohibits the placement of election advertising signs within 100 metres of the building where the District Electoral Office is located or within 100 metres of a building where voting is being conducted (i.e., within 100 metres of a building that contains a voting place).

Q: Can a commercial business place campaign signs on its property?

A: Contact your local municipality as there may be local by-laws on campaign sign placement. The *Election Act* does not have provisions on the placement of campaign signs except that they are not allowed to be within 100 metres of the building where the DEO office is located or within 100 metres of a building where voting is being conducted (i.e., 100 metres of building that contains a voting place).

Q: What is the history of third party advertising in British Columbia?

A: On September 1, 1995 a new *Election Act* came into force. Included were provisions limiting third party advertisers to spending no more than \$5,000 on election advertising during a campaign period. There were no restrictions on spending before 1995.

In April of 1996, Pacific Press – which publishes both The Vancouver Sun and The Province – and Vancouver resident Garry Nixon, began proceedings in the BC Supreme Court challenging the constitutionality of the \$5,000 limit on third party spending. (Pacific Press also challenged section 235 requiring publication of methodological information on election opinion surveys.)

On February 9, 2000, the BC Supreme Court found the sections restricting third party advertising contravene the *Canadian Charter of Rights and Freedoms* and that sections 236-238 of the *Election Act* are of no force and effect.

In October 2002, these sections were repealed by the *Election Statutes Amendment Act*.

In May 2008, the *Election Act* was amended, limiting third party election advertisers to spending no more than \$3,000 with respect to an individual electoral district, and no more than \$150,000 provincially during the period beginning 60 days before a campaign period and ending at the close of voting on General Voting Day.

On March 30, 2009, the British Columbia Supreme Court found that spending limits on third party election advertisers during the 60 day pre-campaign period were an unjustified infringement on the right to freedom of expression guaranteed by the *Canadian Charter of Rights and Freedoms*. As a result of this decision, there is no longer a limit on the value of election advertising sponsored during the 60 day pre-campaign period by a registered election advertising sponsor. Spending limits still apply to election advertising conducted during the campaign period.