

Use of Civic Square – Protocol Policy

ISSUE

The City Administration is currently working on a comprehensive Protocol Policy which establishes a framework of rules and guidelines for the orderly and consistent handling of various tasks and requests received by the City such as civic expressions of sympathy, flag raising and proclamation requests and requests for letters and resolutions of support from the City. The intention is to include a part related to the use of Civic Square. What should be included in this part of the upcoming Protocol Policy?

BACKGROUND

2.1 History

At its [meeting on September 23, 2019](#), the Governance and Priorities Committee (“GPC”) considered a report of the City Solicitor entitled “Approaches for Addressing Existing and Emerging Protocol Issues”. City Council, at its [Regular Business Meeting on September 30, 2019](#) approved the recommendations of GPC and resolved, in part:

That the Administration be directed to draft a comprehensive protocol policy addressing flag raising and proclamations, establishing detailed criteria for determining which applications can be accepted.

Other protocol related decisions, including awards and formal recognitions, the use of Civic Square and the issuance of parking passes for visiting dignitaries were identified in the September 23, 2019 report for possible inclusion in a future policy.

Upon approval by City Council at its [Regular Business Meeting on October 28, 2019](#), Council Policy C01-028 - *The Flag and Proclamations Policy* (“Flag and Proclamations Policy”) came into effect. This Policy deals with, among other things, flag raisings at City Hall’s Civic Square.

At its [meeting on February 22, 2022](#), GPC considered a report of the City Solicitor entitled “Guidelines for Reviewing Requests for Resolutions”. City Council, at its [Regular Business Meeting on February 28, 2022](#) approved the recommendation of GPC and resolved:

That Council Policy C01-028, The Flag and Proclamations Policy, be renamed the Protocol Policy and be expanded in accordance with Option 4 as outlined in the report of the City Solicitor dated February 22, 2022.

At its [meeting on May 17, 2023](#), GPC considered a report of the City Solicitor entitled “Protocol Policy – Book of Condolences and Civic Expressions of Sympathy”. City Council, at its [Regular Business Meeting on May 31, 2023](#) approved the recommendation of GPC and resolved:

That Option 2 – Basic Civic Expression of Sympathy Protocol be approved for inclusion in the Protocol Policy.

The use of Civic Square was previously identified as a potential area for inclusion in the Protocol Policy. The use of Civic Square by third parties is currently addressed in Administrative Policy A09-026 – *Use of City Hall Lobby and Civic Square* (“Use of Civic Square Policy”), which has been in effect since 1999. The Use of Civic Square Policy is attached at Appendix 1.

2.2 Current Status

Administration is preparing a Protocol Policy. This Policy will incorporate the existing protocol for flags and proclamations and include further protocols regarding civic expressions of sympathy and the provision of letters and resolutions of support from the City.

This report is being introduced as part of the Administration’s commitment to bring further reporting on other protocol related matters. Once direction regarding the use of Civic Square is received, Administration intends to bring back a draft of the comprehensive Protocol Policy for approval by City Council.

2.3 Public Engagement

This report has been shared with appropriate members of the Administration for review and feedback. Given the nature of the report and decisions required, public engagement was not deemed to be required, as the Administration believes the decision should be informed by a best-practice review combined with City Council’s desired approach.

2.4 City of Saskatoon’s Current Approach

Requests to use City Hall Premises are currently considered under the Use of Civic Square Policy. “City Hall Premises” is defined as the City Hall lobby and the grounds surrounding City Hall. Subject to the conditions outlined in the Use of Civic Square Policy, City Hall Premises may be used for celebrations, ceremonies, displays and passive leisure activities which are of interest and benefit to the public at large. Use under the existing Policy is limited to community activities which are sponsored by civic departments and agencies, non-profit corporations,

and charitable organizations. Any organized activity requires an application, regardless of size.

The Use of Civic Square Policy sets out that the City Manager is to receive and consider applications to use City Hall Premises. This review process has been delegated to the Communications and Public Engagement Department. The Use of Civic Square Policy provides that City Hall Premises is not to be used for activities which are not open to the public, which interfere with City Hall business, which present a risk to public health and safety or City property, are commercial in nature, or are denominational. Currently, there is no right of appeal of the denial of an application.

2.5 Approaches in Other Jurisdictions

Administration conducted a review of other municipal jurisdictions that have policies respecting public squares or other similar locations. A summary of this review is included at Appendix 2. The approaches in other jurisdictions reveal several similarities between the jurisdictions such as:

- respect for rights enshrined in the *Canadian Charter of Rights and Freedoms*;
- recognition that the space is for public benefit;
- prohibition on illegal or discriminatory activity;
- only non-commercial or charitable entities permitted; and
- permit requirements for activities such as setting up structures.

OPTIONS

This section provides several options for consideration.

Regardless of the option chosen, it is important to note that Civic Square is a space that is open to the public. This affects the level of regulation the City can impose on use of the space based on the laws of Canada. The focus of any protocol respecting the use of Civic Square should therefore focus on:

- how Civic Square may be used generally by the public, as opposed to strictly whether Civic Square can be used; and
- the application requirements for persons or groups to host an approved event in Civic Square.

For this reason, the below options distinguish between “general use”, which includes use where a permit is not required, and “events”, for which a permit is required. All options contemplate permits being required where the event involves: (1) the use of utilities; (2) setting up structures including tents, tables, chairs, or sound amplifying equipment; (3) serving food or drink; or (4) more than 25 people.

All options below also include:

- the ability to require applicants to maintain insurance, allow Administration to impose conditions on the approval of any application and require applicants to submit a refundable deposit subject to the deduction of utility costs, staffing costs, clean up costs or property damage repair costs incurred by the City because of the event;
- event scheduling Monday through Friday, 8 am to 5 pm, to ensure that events can be properly monitored. Displays erected during an event must be removed at the end of the event; and
- an appeal from the Communications and Public Engagement Department's decision to the City Manager will be available where the applicant disagrees with the initial determination.

All options below contemplate "Civic Square" as meaning the square located at City Hall and the grounds of City Hall immediately adjacent to the square. The current configuration of City Hall lobby with customer facing services on the ground floor is not conducive to use of the City Hall lobby as a public gathering space for organized events. City Hall lobby has therefore been removed as a potential area of use.

Option 1 – Criteria to Use Civic Square Similar to Criteria Applied to Flag Raising and Proclamation Requests

Under this option, Civic Square may not be used, for an event or otherwise, if the use or communication associated with the use or event:

- is contrary to any City policies or bylaws, or any other laws;
- is contrary to the *Canadian Charter of Rights and Freedoms*;
- espouses hatred, violence, racism or is otherwise discriminatory;
- is politically or religiously motivated;
- is controversial, contentious or divisive within the community;
- is untruthful, inflammatory, obscene or libelous;
- is a political party or the request is in support of a political party; or
- involves commercial enterprise.

Requests for flag raisings and proclamations under the Flag and Proclamations Policy are considered based on similar criteria.

In addition, only applications from civic departments, community groups, charitable or non-profit organizations will be considered.

Potential legal implications may result from choosing this option. There are no financial implications.

Advantages:

- Maintains similar criteria for the consideration of flag and proclamation requests and the use of Civic Square.
- Implements an appeal procedure for greater fairness.

Disadvantages:

- Inclusion of subjective criteria (e.g., “inflammatory”, “untruthful” and “divisive within the community”) increases likelihood of arbitrary decisions regarding who is approved to use Civic Square.
- Increased likelihood of court actions due to the subjective nature of the criteria.

Option 2 – Least Restrictive Event Application Requirements

As compared to option 1, this option broadens the range of expression in Civic Square. Under this option, Civic Square may not be used, for an event or otherwise, if the use or communication associated with the use or event:

- is contrary to any City policies or bylaws, or any other laws;
- espouses hatred, violence, racism or is otherwise discriminatory or contrary to the *Canadian Charter of Rights and Freedoms* or *The Saskatchewan Human Rights Code*;
- restricts or is not open to the general public;
- interferes with pedestrian traffic or with normal business activities conducted at City Hall;
- presents a risk to public health and safety or a risk of damage to property;
- is for profit, unless the commercial use is approved as incidental or otherwise ancillary to the use or event;
- is likely to cause damage to or result in litter being deposited at Civic Square; or
- requires approval of a permit, but a permit is not obtained.

As compared to the criteria listed under option 1, the main distinctions are that:

- the prohibitions relating to religious or political use or communication are removed;
- the subjective criteria for denying use based on communications that are:
 - controversial, contentious, or divisive within the community, or
 - untruthful, inflammatory, obscene, or libelous are removed; and
- applicants may have an incidental or ancillary commercial or for-profit component associated with the event.

Under this option applications would not be limited to civic departments, community groups, charitable or non-profit organizations like the current Use of Civic Square Policy, but events of a primarily commercial nature would be prohibited. This is the least restrictive option in regard to application requirements.

Advantages:

- Reduces likelihood of arbitrary decisions regarding who is allowed to use civic square due to the removal of criteria that are subjective in nature.
- Reduces the likelihood of court actions due to the subjective nature of the criteria being removed and due to the broad range of persons who can apply to host an event.
- Implements an appeal procedure for greater fairness.

Disadvantages:

- Increases the likelihood of complaints from the community regarding groups who use Civic Square but who the community does not approve of.

Option 3 – Balanced Event Application Requirements

This option adopts the same general use criteria as option 2 but would allow less groups to apply for permits to host events in Civic Square. This option limits approval of event applications to civic departments, community groups, charitable or non-profit organizations. This approach is consistent with the current Use of Civic Square Policy.

A draft version of this option is included at Appendix 3.

Advantages:

- Reduces likelihood of arbitrary decisions regarding who is allowed to use civic square due to the removal of criteria that are subjective in nature.
- Reduces the likelihood of court actions due to the removal of criteria that are subjective in nature.
- Implements an appeal procedure for greater fairness.

Disadvantages:

- Increases the likelihood of complaints from the community regarding groups who use Civic Square but who the community does not approve of.
- May increase the likelihood of complaints from persons wishing to obtain a permit but are not a civic department, community group, charitable or non-profit organization.

Option 4 – Most Restrictive Event Application Requirements

This option is the same as option 3 except for one difference regarding the permit application requirements. Not only must the applicant be a civic department, community group, charitable or non-profit organization, but community groups, charitable and non-profit organizations must also have an established relationship with the City. An established relationship would be defined as at least one partnership on a project with the City within the last five years from the date of the application. Therefore, groups without an established relationship would not be eligible for a permit.

Advantages:

- Reduces likelihood of arbitrary decisions regarding who is allowed to use civic square due to the removal of criteria that are subjective in nature.
- Reduces the likelihood of court actions due to the removal of criteria that are subjective in nature.
- Implements an appeal procedure for greater fairness.

Disadvantages:

- Greatly decreases the opportunity of groups to use Civic Square for events as only those community groups, charitable or non-profit organizations meeting the criteria of having an established relationship with the City could apply.
- May increase the likelihood of complaints from persons wishing to obtain a permit but are not a community group, charitable or non-profit organization with an established relationship with the City.

RECOMMENDATION

That the Governance and Priorities Committee recommend to City Council:

1. That Option 3 – Balanced Event Application Requirements be approved;
2. That the Use of Civic Square Protocol attached at Appendix 3 be included in the comprehensive Protocol Policy; and
3. That the City Solicitor be instructed to amend Bylaw No. 7767, *The Recreation Facilities and Parks Usage Bylaw, 1998* as outlined in this report.

RATIONALE

The main difference between option 1 and the other options are the criteria for the general use of or communications permitted in Civic Square. Option 3 is recommended. It regulates all use of Civic Square without approval, provided that the use or communication:

- is not contrary to any City policy or bylaw, or any other laws;
- does not espouse hatred, racism or is otherwise discriminatory;

- is not closed to the public;
- does not interfere with pedestrian traffic;
- does not present a risk to health, safety or property;
- is not for profit, unless the commercial use is approved as incidental or ancillary;
- is not likely to cause damage to or result in litter being deposited at Civic Square; or
- requires a permit as described below.

Subjective criteria found in the current Use of Civic Square Policy, the Flag and Proclamations Policy and option 1, including whether the use or message is contentious or divisive within the community or whether it is politically or religiously motivated, have been removed and would not be considered in either denying general use of the space or in denying a permit. This option invites more people to use Civic Square, most recognizes the public nature of the space and the purposes of the use of Civic Square portion of the Protocol Policy. Further, option 3 best ensures the safe, orderly, and democratic use of the space. For these reasons, option 1 is not recommended.

Option 3 requires permits to be obtained: (1) where utility hook ups are required; (2) where sound amplifying equipment will be used; (3) when structures will be set up; (4) where food or drink will be served; (5) where the number of participants is expected to exceed 25 persons; or (6) where there is any incidental or ancillary commercial use to the event. Applications for an event are also limited to civic departments, community groups, charitable and non-profit organizations. Restricting applications to these groups is consistent with other jurisdictions.

The Use of Civic Square Policy currently prohibits events which are commercial in nature; however, option 3 would permit commercial activity in using Civic Square in limited circumstances so long as it is only ancillary or incidental to the event hosted by the community group, non-profit or charitable organization applying for the permit. This would allow for more flexibility in approving events.

Option 2 is not recommended as it may result in an increase in the number of permit applications received, which may impact Administration's ability to effectively regulate and schedule events. Even though option 2 is not being recommended, the recommended option 3 would result in Civic Square being more accessible than it is today, particularly for those wanting to properly use the space without requiring a permit.

Option 4 is not recommended as it would result in less use of Civic Square given the strict limitation on potential user groups.

ADDITIONAL IMPLICATIONS/CONSIDERATIONS

The Recreation Facilities and Parks Usage Bylaw, 1998 refers to use of Civic Square in Part IV and addresses when a person must apply to use Civic Square. These provisions should be amended to ensure consistency with the Protocol Policy. These changes are not urgent and, if approved, Administration will attempt to combine them with substantive changes that may be approved at a future date.

Further, the Administrative Procedure developed to accompany the Use of Civic Square Policy will likewise need to be updated to reflect the approved use of Civic Square protocol.

COMMUNICATION ACTIVITIES

The Communications and Public Engagement Department will inform the public of changes to the City's Use of Civic Square policy.

APPENDICES

1. Administrative Policy A09-026 – Use of City Hall Lobby and Civic Square
2. Jurisdictional Scan
3. Option 3 Draft Protocol
4. Solicitor/Client Privilege

Report Approval

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