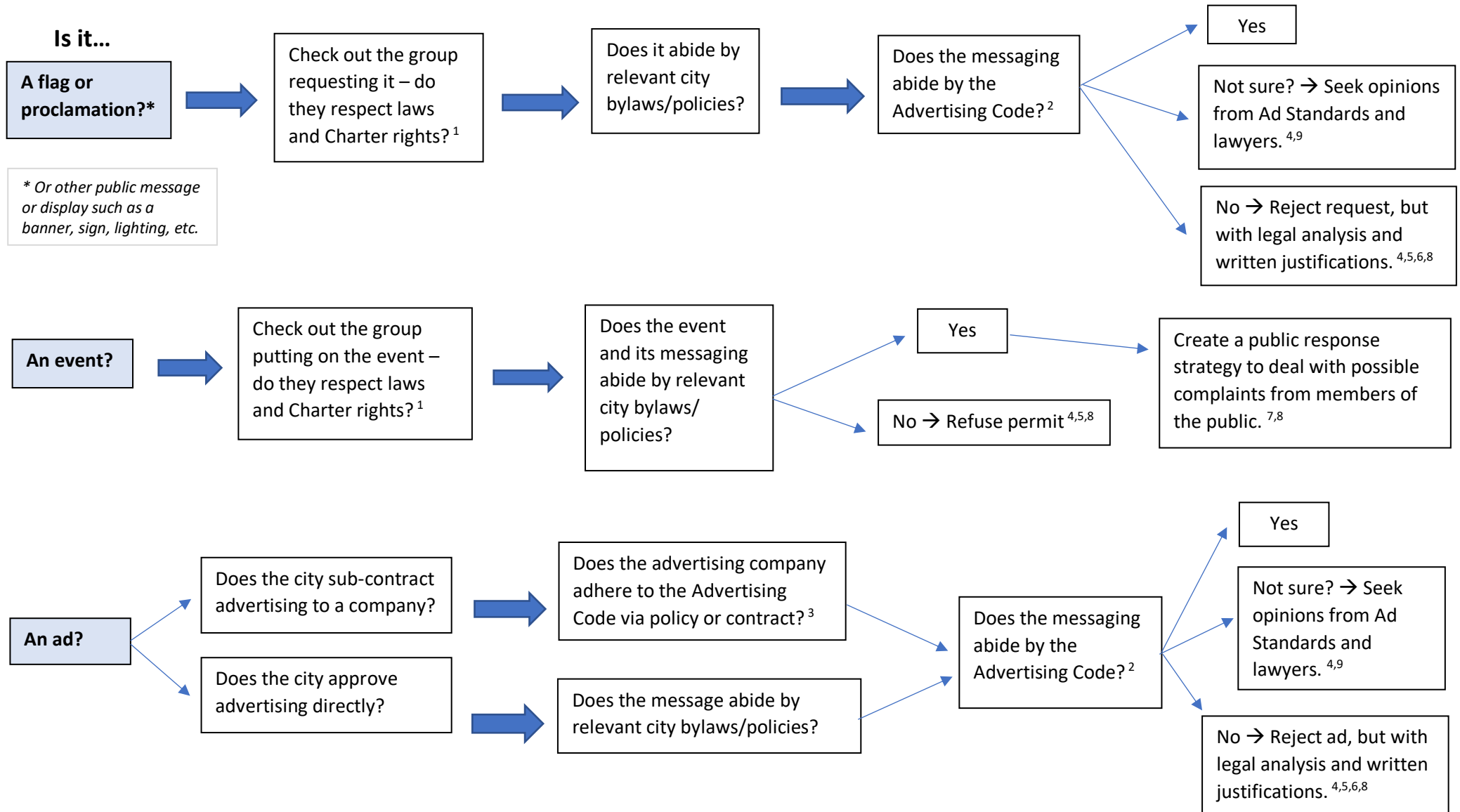


Quick Assessment Guide for Cities to Evaluate Public Messaging Requests



Footnotes and Resources

1. Check the websites of groups requesting the public messaging. Often, their request may seem benign but the group's mandate and other public messaging may indicate an unacceptable stance on human rights or other issues. (See for example: <https://globalnews.ca/news/791999/regina-fooled-by-white-supremacist-group-into-declaring-european-heritage-week/>.) Further, if a website address appears on an ad, the contents of the website should be considered part of the ad, because the ad is sending people there. Ad Standards looks at website content when a URL is provided on the ad.
2. Here is the *Canadian Code of Advertising Standards* ("the Code"): <https://adstandards.ca/code/>. The Code is also available in French at the same link.
3. Cities can require sub-contracted companies to abide by the Code in contracts, as well as cite the Code in their policies as does Pattison Outdoor: <https://www.pattisonoutdoor.com/advertisingcontentguidelines/>
4. Before refusing an ad, it is very important that cities undertake an analysis to ensure only minimal impairment of the advertiser's freedom of expression rights under the Charter, and to also balance those rights with the city's statutory objectives. Use the Oakes test and Doré/Loyola test:
 - The Oakes test (R. v. Oakes, [1986] 1 SCR 103) allows certain justifiable infringements under Section 1 of the Charter: <https://ccla.org/cclanews/wp-content/uploads/2018/07/Section-1-and-the-Acorn-Test.pdf>.
 - The Doré test (Doré v Barreau du Québec, [2012] SCC 12) requires an administrative decision-maker to balance Charter values with their agency's statutory objectives: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7998/index.do>
 - In the Loyola case (Loyola High School v. Québec (Attorney General), 2015 SCC 12 (CanLII), [2015] 1 SCR 613), the Supreme Court clarified that the Doré test is meant to be a "robust" exercise and that Charter protected rights are to be "affected as little as reasonably possible": <https://www.canlii.org/en/ca/scc/doc/2015/2015scc12/2015scc12.html>
5. In December 2018, the City of Saskatoon rejected a request for "Respect for Life Week" by an anti-choice group: <https://www.cbc.ca/news/canada/saskatoon/saskatoon-anti-abortion-week-fail-1.4952969>. The City of Kelowna BC stopped approving anti-choice proclamations in 2013: http://www.kelownadailycourier.ca/news/article_2456bb3c-32be-5347-865b-04736934c948.html. Kelowna, Prince Albert, and Ottawa have all removed anti-choice flags at City Hall after a public outcry.
6. The Alberta Court of Appeal found that the City of Grande Prairie's rejection of anti-choice ads using the Code and other criteria was reasonable: <https://www.canlii.org/en/ab/abqb/doc/2016/2016abqb734/2016abqb734.html>. Five other court decisions support use of the Code by local governments. Such Court decisions stand as precedent and provide Canadian cities important support in rejecting anti-choice ads.
7. For events, it may be difficult for the city to know in advance what messaging if any will be associated with the event. However, cities could include a requirement in their event permits that any public messaging must abide by the Code, as well as laws and City policies. If complaints are received, cities can refer the public to Ad Standards, which has a complaints process: <https://adstandards.ca/complaints/how-to-submit-a-complaint/>
8. Using the Code (in addition to a Charter analysis and other reasonable criteria) to reject ads provides a strong rationale by which to respond to complaints from the public and advertisers. It also reduces the risk of advertiser disputes and lawsuits. Following the Code's guidelines helps to meet local community values that encourage inclusivity, diversity, accessibility, and a safe and welcoming environment for all.
9. For a fuller description of decisions against anti-choice ads, visit the Ad Standards Complaints Reports page and search through the Archived Case Summaries. <https://adstandards.ca/complaints/complaints-reporting/archived-case-summaries/>

Other Resources (from Abortion Rights Coalition of Canada)

- [*Courts have endorsed use of the Canadian Code of Advertising Standards*](#) - Summaries of court decisions with quotes supporting the Code.
- [*Cities Should Not Approve Anti-choice Messaging – ARCC Position Paper*](#)
- [*Court Decisions and Laws Pertaining to Abortion in Canada \(with summaries\)*](#)