

To: Corporate Services Committee

From: Andrew Brouwer, City Clerk,
Corporate Services Department

Report Number: CORP-18-07

Date of Report: February 22, 2018

Date of Meeting: February 26, 2018

Subject: Use of Corporate Resources for Election Purposes Policy

File: A-2140

1.0 Purpose

The purpose of this report is to present a revised Use of Corporate Resources for Election Purposes Policy that governs the use of City resources during a municipal, provincial or federal election campaign.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That the 'Use of Corporate Resources for Election Purpose' found as Attachment 1 to Report CORP-18-07 be approved.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

- Corporate Communications
- Human Resource Services
- Legal Services
- Other Greater Toronto Area municipalities

5.0 Analysis

Recent amendments to the Municipal Elections Act require changes to the City’s Use of Corporate Resources for Election Purposes Policy. The modifications contained within the revised policy incorporate best practices identified during a review of equivalent policies within the Greater Toronto Area. Approving the revised policy will ensure clarity for community stakeholders and consistency with best practices found within the municipal sector.

Changes to the policy are summarized in the following table:

Element	Current Policy	Proposed Change or Addition to Policy
Application of Policy	Applied to municipal elections only.	Applies to municipal, provincial and federal elections and by-elections. Applies to third party advertisers.
Effective Date of Policy	January 1 in the year of an election.	The day preceding a campaign period.
Municipal Events	N/A	Campaign activities and the distribution of campaign materials are prohibited at events hosted, organized or coordinated by the City, whether located at a City facility or not.

Element	Current Policy	Proposed Change or Addition to Policy
Use of City Website	Prohibited all links to candidate websites.	<p>Permits one link from the City's Election Portal to a candidate's campaign website.</p> <p>Biographies of Council members and links to personal websites and social media accounts removed on the day preceding a municipal campaign period.</p> <p>Biographies of Council members running in a provincial or federal election and links to personal websites and social media accounts removed on the day the writ is issued for a provincial or federal campaign period.</p>
City Contractors	Silent	May not be used for campaign purposes or engage in campaign activities while delivering services paid for by the City.

Element	Current Policy	Proposed Change or Addition to Policy
City Staff	May not contribute to a campaign while receiving compensation from the City	<p>May not engage in campaign activities while wearing a uniform, badge, crest or other element that identifies them as City staff.</p> <p>May not engage in campaign activities while using any resource (vehicle, technology, etc.) owned or leased by the City.</p> <p>Shall ensure that their activities do not create a real or perceived conflict of interest.</p> <p>Encouraged to consult with managerial or supervisory staff before engaging in campaign activities to assess how their political activities may impact their professional duties.</p>

5.1 Expanded Scope

The scope of the policy has been expanded to include campaigns that are conducted in support of elections and by-elections at the municipal, provincial and federal levels.

5.2 Use of City Facilities

In 2014, several candidates and potential candidates were found to be actively campaigning during special events hosted by the City of Oshawa (particularly the City’s Canada Day celebrations), despite previous communications from City Clerk Services indicating that such activities could be seen to be a campaign contribution under the Municipal Elections Act and were prohibited. To address this potential gap, the proposed policy prohibits campaign activities undertaken by candidates and third party advertisers at events hosted, organized or coordinated by the City. To provide greater clarity to candidates, third party advertisers and the community broadly, the prohibition also extends to events that may not occur on City property or at a City facility.

5.3 Use of City Technology

The revised policy provides additional clarity around the use of City technology, including how the City's websites and social media accounts may be used to disseminate or link to information that may be considered campaign material. Given recent changes to the Municipal Election Act and comments received from the public during previous election events, the policy permits a link from the City's election information portal to a campaign website managed by a candidate or third party advertiser, subject to approval by the City Clerk. No other links shall be permitted, and where they are found, will be removed.

On the day preceding the campaign period, all biographies and links to personal websites and social media accounts will be removed. Similarly, where a member of Council runs as a candidate in a provincial or federal election, biographies and links to personal websites and social media accounts will be removed during the campaign period.

5.4 Use of City Employees and Contractors by Candidates and Third Party Advertisers

To avoid the perception of an inappropriate contribution to a campaign, the policy brings greater clarity to the relationship between candidates, third party advertisers, City employees and contractors. The policy prohibits candidates and third party advertisers from using services rendered by City employees for campaign purposes during regular business hours or while the employee is receiving compensation from the City. Furthermore, candidates and third party advertisers may not use the services of a City contractor for campaign activities while the contractor is being paid by the City to supply those goods or services.

5.5 Employee Participation in Campaign Activities

The City recognizes that employees have an important contribution to make to the Oshawa community; however, those contributions must respect the unique position in which employees find themselves, particularly as it relates to political events that occur from time to time. As noted above, candidates and third party advertiser may not make use of City employees for campaign activities while they are being paid by the City. Likewise, City employees may not engage in campaign activities in support of a candidate and third party advertiser while being paid by the City.

To avoid the perception that the City is supporting any particular candidate or third party advertiser, the policy prohibits City employees from participating in campaign activities while wearing or displaying a City uniform, badge, crest or other symbol that identifies them as an employee. Additionally, employees may not make use of any City resource to which they have access as a result of their employment, such as a vehicle, or communications device, while engaging in campaign activities.

Finally, the policy reinforces staff's responsibilities under the City's Employee Code of Conduct and requires staff to be mindful of real or perceived conflicts of interest arising from their involvement in political activities outside of the workplace. The policy encourages staff to discuss their proposed activities with their manager or supervisor in an effort to identify potential conflicts that may compromise their professional responsibilities.

6.0 Financial Implications

There are no financial implications associated with the Use of Corporate Resources for Election Purposes Policy.

7.0 Relationship to the Oshawa Strategic Plan

The Use of Corporate Resources for Election Purposes Policy supports the goal of accountable leadership and the theme of excellence and respect found within the Oshawa Strategic Plan.



Andrew Brouwer, City Clerk,
Corporate Services Department

Attachment



Corporate Policy

Use of Corporate Resources for Election Purposes

File: A-2140

Revision: N/A

Approval Date: March 19, 2018

Revision Date: N/A

1. Policy Statement

The Municipal Elections Act, 1996, as amended, establishes rules and regulations governing the financing of municipal election campaigns in Ontario. Section 88.8(4) prohibits a municipality from making any contribution to a candidate running in a municipal election, or any individual, corporation or trade union registering to support or oppose a candidate or question on a ballot.

The Election Finance Act, 1990, as amended, and the Canada Elections Act, 2000, as amended, establish regulations for candidates and parties running in provincial and federal elections. Section 29(1) of the Election Finance Act and Section 363(1) of the Canada Elections Act prohibit municipal corporations from contributing to any candidate, constituency association, nomination contestant, leadership contestant, or political party.

As campaign contributions may take the form of money, goods and services, any use of a corporate resource for an election-related purpose, by a member of Council, candidate, third party advertiser or staff, is prohibited.

2. Purpose

The purpose of the Use of Corporate Resources for Election Purposes Policy (the Policy) is to meet the City of Oshawa's responsibilities under the Municipal Elections Act, the Election Finance Act and the Canada Elections Act, by establishing for the benefit of candidates, current members of City Council, City staff and members of the public, the requirements and restrictions relating to campaign finances, the use of municipal resources and municipal contributions to election campaigns.

3. Application

This Policy applies to members of Council, Candidates, Third Party Advertisers, City Contractors and City employees:

- in the year of a municipal election from April 30 until Voting Day; or,
- from the day Council adopts a by-law directing a by-election until Voting Day, or
- from the date the writ is issued for a provincial or federal general election or by-election, until Voting Day.

4. Definitions

In this Policy,

“Campaign Period” means:

- In the case of a regular municipal election, the period between May 1 and Voting Day in the year of a municipal election; or,
- In the case of a municipal or schoolboard by-election, the period between the passage of a by-law authorizing a by-election and Voting Day; or
- In the case of provincial or federal election or by-election, the date the writ is issued until Voting Day.

“Campaign Activity” means any action, event, or pursuit 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, that promotes or opposes any Candidate, 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.

“Candidate” means any individual who has filed nomination papers with the City Clerk in accordance with Section 33 of the Municipal Elections Act, 1996, S.O. 1996, c.32, or with a returning officer in accordance with Section 27.1 of the Election Act, R.S.O. 1990, c. E.6, or Part 6 of the Canada Elections Act, S.C. 2000, c. 9.

“City” means the Corporation of the City of Oshawa and includes its agencies, local boards and commissions.

“City Clerk” means the City Clerk of the City of Oshawa, or his or her designate, or a returning officer appointed under Section 7(1) of the Election Act, R.S.O. 1990, c. E.6, or Section 24(1) of the Canada Elections Act, S.C. 2000, c. 9, or his or her delegate.

“City Contractor” means any individual, company, or individual employed by a company, contracted to provide goods or services to the City.

“City Council” means the Council of the Corporation of the City of Oshawa.

“City Employee” means for the purposes of this Policy all full-time or part-time employees of the City, including the City Manager, Commissioners, Directors, Managers, Supervisors, and non-unionized staff, members of the Canadian Union of Public Employees, Locals 250, 251 and 3760, members of the International Association of Fire Fighters, Local 465 and all contract and temporary employees, students, co-op placement staff and volunteers.

“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.

“Corporate Resource” means any physical, intellectual or financial asset owned, leased or otherwise controlled by the City and includes vehicles, equipment, supplies, services and employees.

“Corporate Technology” includes computers, servers, cell phones, smart phones, telephones, tablets, printers, scanners, copiers, email, file storage, voicemail, or any other equipment or technology controlled, leased or owned by the City.

“Election” means a municipal, provincial or federal election, or by-election, held in accordance with the Municipal Elections Act, 1996, S.O. 1996, c.32, the Election Act, R.S.O. 1990, c. E.6, or the Canada Elections Act, S.C. 2000, c. 9.

“Election Activities” means any election-related session, event or activity hosted by or at the direction of the City Clerk, or a returning officer appointed under Section 7(1) of the Election Act, R.S.O. 1990, c. E.6, or Section 24(1) of the Canada Elections Act, S.C. 2000, c. 9.

“Election Sign” means a device, including its structure and other component parts, which is used or is capable of being used to promote a candidate in a federal, provincial or municipal election, including an election of a local board or commission, or to influence persons to vote for or against any candidate, question or by-law, or referendum.

“Member” means an individual elected or appointed to City Council and holding public office during a Campaign Period.

“Third Party Advertiser” means any individual, corporation or trade union registered in accordance with Section 88.6 of the Municipal Elections Act, Section 37.5 of the Election Finance Act, R.S.O. 1990, c. E.7, or Section 353 of the Canada Elections Act, S.C. 2000, c. 9.

5. Policy

5.1. General

The City shall not make contributions of money, goods or services to any Candidate or Third Party Advertiser.

5.2. Members of Council, Candidates and Third Parties

The following applies to Members of Council, Candidates, Third Party Advertisers and any individual acting on behalf of a Member, Candidate or Third Party Advertiser.

5.2.1. Use of City Facilities, Services and Property

- 1) City Facilities may not be used for any Campaign Activities.
- 2) Campaign Material may not be displayed at any City Facility.
- 3) Members, Candidates and Third Party Advertisers may not engage in Campaign Activities at any function hosted, managed or coordinated by the City, whether located at a City Facility or not.

5.2.2. Technology

- 1) Corporate Technology may not be used for any Campaign Activity.
- 2) Websites, domains and social media accounts operated or funded by the City shall not include any Campaign Material or links to any website, domain or social media account containing Campaign Material.
- 3) Notwithstanding the prohibition on links to Campaign Material from websites, domains and social media accounts controlled, operated or funded by the City, the City of Oshawa election website that lists Candidates may, subject to the approval of the City Clerk, include one link per Candidate to a website containing Campaign Material.
- 4) On the day preceding the commencement of a municipal Campaign Period, biographical information about a Member and links to personal websites and social media accounts shall be removed from any website, domain or social media account controlled, operated or funded by the City.
- 5) On the day the writ is issued for any provincial or federal Election, biographical information about any Member registered as a Candidate, and links to personal websites and social media accounts shall be removed from any website, domain or social media account controlled, operated or funded by the City.

5.2.3. Communications

- 1) Members, Candidates and Third Party Advertisers shall not include the City's logo, crest, flag, tagline and other similarly branded Corporate Resources or trademarks in any Campaign Material.
- 2) Members, Candidates or Third Party Advertisers shall not convey, in any medium developed, distributed or paid for by the City, the registration of any individual as a Candidate or any individual, corporation or trade union as a Third Party Advertiser.
- 3) On the day preceding a municipal Campaign Period, the following shall be discontinued for Members, Candidates or Third Party Advertisers where they are paid for by the City:
 - a. All forms of advertising, including within municipal publications;
 - b. The ordering of stationery.
- 4) On the day preceding a municipal Campaign Period, no printing, reproduction, mailing or other distribution of material in a quantity of more than 50 pieces per week is permitted using City Resources, irrespective of any funding available to a Member, Candidate or Third Party Advertiser.

5.2.4. Budget

- 1) From January 1 to Voting Day in the year of a municipal election, budgets allocated to Members will be restricted to 11/12ths of the approved annual budget.
- 2) Candidates newly elected to Council during a regular municipal election will be allocated a budget equal to 1/12ths of the approved budget for the month of December.
- 3) A Member or Candidate re-elected to Council during a regular municipal election will be allocated the balance remaining available as of Voting Day.

5.2.5. City Employees and Contractors

- 1) Members, Candidates and Third Party Advertisers shall not use the services of a City Employee for any Campaign Activity during regular business hours or while the City Employee is receiving compensation from the City, unless the City Employee is on a pre-approved personal paid or unpaid leave of absence, including time off in lieu of over-time, flex time, vacation or parental leave.
- 2) Members, Candidates and Third Party Advertisers shall not use the services of City Contractors for any Campaign Activities while the Contractor is directly engaged in the delivery of goods or services for which the Contractor is receiving compensation from the City.

5.3. City Employees

The following applies to City Employees:

- 1) City Employees shall not engage in any Campaign Activities in support of a Member, Candidate or Third Party Advertiser during regular business hours or while receiving compensation from the City, unless they are on a pre-approved paid or unpaid leave of absence, including time off in lieu of over-time, flex time vacation or parental leave.
- 2) City Employees shall not engage in any Campaign Activities in support of a Member, Candidate or Third Party Advertiser while wearing any City uniform, badge, crest or other item that identifies them as a City Employee.
- 3) City Employees shall not engage in any Campaign Activities while using any vehicle, City Technology, or other City Resource owned or leased by the City.
- 4) City Employees have the right to engage in political activities, including Campaign Activities; however, City Employees shall be mindful of their responsibilities under the Employee Code of Conduct. City Employees must be aware of public perception while engaging in Campaign Activities and ensure that their involvement does not create a perceived or actual conflict of interest with their official positions. Before participating in Campaign Activities, City Employees are strongly encouraged to discuss their proposed participation with their supervisor or manager to identify perceived or actual conflicts of interest that may arise.

6. Limitations

Nothing in this policy will preclude the City Clerk from performing his or her statutory duties, restrict him or her from distributing information respecting Election Activities, or undertake actions that assist residents in exercising their right to vote.