

To: Corporate Services Committee

From: Mary Medeiros, City Clerk,
Corporate Services Department

Tracy Adams, Commissioner
Corporate Services Department

Report Number: CORP-22-03

Date of Report: January 5, 2022

Date of Meeting: January 10, 2022

Subject: Use of Corporate Resources for Election Purposes Policy

Ward: All Wards

File: 03-05

1.0 Purpose

The purpose of this report is to present a revised Use of Corporate Resources for Election Purposes Policy (“the Policy”) that governs the use of the City of Oshawa (the “City”) resources during municipal, provincial and federal election campaigns as required under Section 88.18 of the *Municipal Elections Act, 1996*.

Attachment 1 is the revised Use of Corporate Resources for Election Purposes Policy.

Attachment 2 is the Ontario Municipalities Comparison Chart.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That the revised “Use of Corporate Resources for Election Purposes Policy” appended as Attachment 1 to Report CORP-22-03, dated January 5, 2022, be approved.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

- Legal Services
- Recreation and Culture Services

- Other Ontario Municipalities: Ajax, Brantford, Hamilton, Kingston, Markham, Newmarket, Pickering, Toronto, Vaughan, and Whitby

5.0 Analysis

At its September 23, 2013 Council Meeting, [CORP-13-121-CM](#) Use of Corporate Resources for Election Purposes which established guidelines on the appropriate use of corporate resources during a municipal election period to protect the interests of both Council members and the Corporation was approved.

At its March 19, 2018 Council Meeting, [CORP-18-07](#) the revised Use of Corporate Resources for Election Purposes Policy which governs the use of City resources during a municipal, provincial or federal election campaign was approved. The revised policy included amendments to reflect amendments to the *Municipal Elections Act, 1996*, as amended as well as best practices within the Greater Toronto Area including Use of City Facilities, Use of City Technology, Use of City Employees and Contractors by Candidates and Third Party Advertisers and Employee Participation in Campaign Activities. In addition, it was expanded to include campaigns that are conducted in support of elections and by-elections at the municipal, provincial and federal levels.

The Use of Corporate Resources for Election Purposes Policy is necessary to safeguard the interests of both the members of Council and the Corporation and to preserve the public trust and integrity of the elections process. Section 88.18 of the *Municipal Elections Act, 1996*, as amended (“the Act”) requires that before May 1 in the year of a regular election, municipalities and local boards shall establish rules and procedures with respect to the use of municipal or board resources during the election campaign period.

In addition, Section 88.8(4) of the Act prohibits a corporation (including municipal corporations) from making any contribution to a candidate running in a municipal election. Furthermore, Section 29(1) of the Ontario *Election Finances Act, 1990* and Section 363(1) of the *Canada Elections Act, 2000* prohibit corporations (including municipal corporations) from contributing to any candidate, constituency association, nomination contestant, leadership contestant, or political party.

The Use of Corporate Resources for Election Purposes Policy prohibits contributions by the City during campaign periods. Contributions include money, goods and/or services to any candidate, registered third party advertiser and/or political party. According to the 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 regular election; or,
- In the case of a municipal or school board 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.

As the upcoming Municipal Election will be held on Monday, October 24, 2022, it is necessary to review and revise the existing Use of Corporate Resources for Election Purposes Policy and approve any changes prior to May 1, 2022. Therefore, a comparison was made between the City's Policy and 10 Ontario municipalities and is appended to this report as Attachment 2. Each section and clause was indexed and benchmarked to identify where gaps exist and/or where improvements could be made to clarify the current Policy. There are no changes recommended for the Budget, City Employees and Contractors and City Employees sections of the Policy as these sections were clear and consistent with the comparison group. The remaining sections with respective changes and additions are outlined below.

5.1 Definitions

In 2018, the Policy was revised to apply to municipal, provincial and federal elections and by-elections. At issue with this however, is the definition of candidate which only applies to local elections. It is recommended that the definition be broadened to include provincial and federal candidates to ensure there are no conflicts with the use throughout the Policy. The Policy has also been extended to apply to members of all City Committees to prevent campaigning during Committee meetings and to City Volunteers to prevent campaigning during volunteer hours. The proposed updated definitions include:

- **Candidate** means a person who has filed the relevant nomination (and has not withdrawn that nomination), or expressed an intention to file the relevant nomination for an office on the council of a lower-tier or upper-tier municipality, local board, provincial parliament or federal parliament at an election or by-election and includes those candidates who have been acclaimed.
- **Member** means an individual elected or appointed to City Council and holding public office or an individual appointed to a City Committee and sitting on this committee during a Campaign Period.
- **City Committee** means any advisory, task force, working group or any other committee to which members of Council or of the public are appointed, including but not limited to Standing Committees, Advisory Committees, Committee of Adjustment, Property Standards Committee, Community Centennial Committee, Diversity, Equity and Inclusion Committee, Plan Twenty30 Steering Committee, Columbus Community Advisory Committee, Mayor's Task Force on Community Safety, Security and Well-being, Mayor's Economic Recovery Task Force, and any other committee to which staff or Council appoint members.
- **City Volunteer** means an individual who performs duties on behalf of the City and who does not receive financial payment from the City for their work as a volunteer.

5.2 Use of City Facilities, Services and Properties

Oshawa's position has been not to allow an exception for rentals. This is consistent with an endorsement provided by Worship Justice of the Peace White on October 29, 1985, in regards to the City of Ottawa's involvement in candidate debates. Justice of the Peace White stated "the elected body should not, in my opinion, participate as such in any way, in

the fostering of debate in the electioneering arena.” Several clauses in the City’s Policy are included below to support this recommendation:

- Members of Council and candidates may not use their City office, or any municipally-provided facility for any election-related purpose, which includes the display of any campaign-related signs in the window or on the premises, as well as the display of election-related material in the office.
- Any rental agreement for a City Facility held by a Candidate or their agent, or Third Party Advertiser or their agent must end prior to the Campaign Period. The balance of the rental fee will be refunded upon cancellation.
- Rental of City Facilities for all-candidates meetings or debates is not permitted.
- This provision does not apply to public right of way sidewalks and thoroughfares, except where prohibited in accordance with Durham Region and City of Oshawa sign by-laws.

5.3 Technology

The use of Corporate Technology is entirely prohibited for a campaign and the Technology section in the Policy provides specific restrictions in regards to City domains and social media (digital communications). It is recommended that this also be expanded to digital files created and owned by the City such as maps, official plans, Council records and more. The following proposed clause clarifies this recommendation:

- Corporate Resources including but not limited to strategic or Official plans, maps, staff reports, minutes and agendas may be linked from candidate websites and social media to the City’s websites and social media, but may not be housed on Candidate websites and social media, or modified/reproduced for use in any campaign related material. The only exception to these rules shall be that candidates may promote and/or distribute City materials developed by the City specifically for promotion of the election including but not limited to promotional videos, infographics, and voting calendars, provided that they are not modified from their original format in any way.

5.4 Communications

The Communication section relates to physical communications while the Corporate Technology section includes digital communications. Altogether, City resources cannot be used for communicating potential campaigns or existing campaigns. Additional recommendations are provided below to provide further clarity:

- Members may not print or distribute material paid for with City funds that illustrate or reference that they (or another person) are or intend to be, a Candidate for office at an Election.
- Photographs produced for and owned by the City of Oshawa may not be used for any election purposes.

- Contact information for residents such as newsletter or email distribution or circulation lists may not be used for Campaign Activities or provided to a campaign for the purposes of supporting or opposing a Candidate or ballot question. Further, contact information provided through social media which is owned and/or operated by the City or City Staff, shall similarly not be used for Campaign Activities or provided to a campaign.
- Members during a municipal election period, or Candidates in other election periods, may not hold Ward Meetings during time frames as outlined in the Policy.

6.0 Financial Implications

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

7.0 Relationship to the Oshawa Strategic Plan

The revised Use of Corporate Resources for Election Purposes Policy supports the Oshawa Strategic Plan goal of Accountable Leadership.



Mary Medeiros, City Clerk,
Corporate Services Department



Tracy Adams, Commissioner,
Corporate Services Department

Policy: Use of Corporate Resources for Election Purposes Policy			
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Related Policies:	Municipal Elections Act, 1996, as amended		

1.0 Purpose/ Background

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, 1996*, the *Election Finances Act, 1990* and the *Canada Elections Act, 2000* 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.

2.0 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 corporations (including municipal corporations) from making any contribution to a Candidate running in a municipal Election.

The *Election Finances 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 Finances 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.

3.0 Scope/ Application

This Policy applies to members of Council, members of City Committees, Candidates, Third Party Advertisers, City Volunteers, Contracted Service Providers and 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.

4.0 Definitions

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, electronic communications, banners, posters, pictures, buttons, clothing, signs, magnets and vehicle decals.

Campaign Period means:

- In the case of a regular municipal or school board Election, the period between May 1 and Voting Day in the year of a regular Election; or,
- In the case of a municipal or school board 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.

Candidate means a person who has filed the relevant nomination (and has not withdrawn that nomination), or expressed an intention to file the relevant nomination for an office on the council of a lower-tier or upper-tier municipality, local board, provincial parliament or federal parliament at an Election or by-Election and includes those candidates who have been acclaimed.

City means the Corporation of the City of Oshawa.

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

City Committee means any advisory, task force, working group or any other committee to which members of Council or of the public are appointed, including but not limited to Standing Committees, Advisory Committees, Committee of Adjustment, Property Standards Committee, Community Centennial Committee, Diversity, Equity and Inclusion Committee, Plan Twenty30 Steering Committee, Columbus Community Advisory Committee, Mayor's Task Force on Community Safety, Security and Well-being, Mayor's Economic Recovery Task Force, and any other committee to which staff or Council appoint members.

City Council means Oshawa City Council as a whole.

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 but is not limited to City Hall, administrative offices, operation centres, libraries, community and recreation

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centres, the Tribute Communities Centre, the Oshawa Executive Airport, parking lots, parks, trails, sports fields and open space.

City Volunteer means an individual who performs duties on behalf of the City and who does not receive financial payment from the City for their work as a volunteer.

Contracted Service Provider means an individual or business that undertakes a contract or agreement with the City in order to perform a service on a continuing basis (e.g. Security Guard Services, Marriage Officiants, etc.).

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, virtual meeting platforms, 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 ("Municipal Elections Act, 1996"), the Election Act, or the Canada Elections Act.

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, or Section 24(1) of the Canada Elections Act.

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.

Employee means all full-time, part-time, temporary and seasonal staff of the City of Oshawa including staff hired on a contract basis for a defined period of time and practicum students.

Member means an individual elected or appointed to City Council and holding public office or an individual appointed to a City Committee and sitting on this committee 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 Finances Act*, R.S.O. 1990, c. E.7 ("Election Finances Act"), or Section 353 of the *Canada Elections Act*.

5.0 Responsibilities

The City Clerk or their designate shall be responsible for the administration of this Policy and investigating and resolving any complaints regarding the alleged use of Corporate Resources in contravention of this Policy.

6.0 Practice/ Procedures

6.1 General

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

6.2 Members, Candidates and Third Parties

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

6.2.1 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 meeting or function hosted, managed or coordinated by the City, whether located at a City Facility or not.
- 4) Members of Council and Candidates may not use their City office, or any municipally-provided facilities for any Election Activities, which includes the display of any campaign-related signs in the window or on the premises, as well as the display of Election-related material in the office.
- 5) Any rental agreement for a City Facility held by a Candidate or their agent, or Third Party Advertiser or their agent must end prior to the Campaign Period. The balance of the rental fee will be refunded upon cancellation.
- 6) Rental of City Facilities for all-Candidates meetings or debates is not permitted.
- 7) This provision does not apply to public right of way sidewalks and thoroughfares, except where prohibited in accordance with Durham Region and City of Oshawa sign by-laws.

6.2.2 Technology

- 1) Corporate Technology may not be used for any Campaign Activity.

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- 2) Corporate Resources including but not limited to strategic or official plans, maps, staff reports, minutes and agendas may be linked from Candidate websites and social media to the City's websites and social media, but may not be housed on Candidate websites, or modified/reproduced for use in any campaign related material. The only exception to these rules shall be that Candidates may promote and/or distribute City materials developed by the City specifically for promotion of the Election including but not limited to promotional videos, infographics, and voting calendars, provided that they are not modified from their original format in any way.
- 3) 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.
- 4) 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.
- 5) On January 1 in the year of a Municipal Election, 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.
- 6) 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.

6.2.3 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) Photographs produced for and owned by the City of Oshawa may not be used for any Election purposes.
- 3) Members, Candidates or Third Party Advertisers may not print or distribute material paid for with City funds that illustrate or reference that they (or another person) are or intend to be, a Candidate for office at an Election.
- 4) 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.

- 5) 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:
 - All forms of advertising, including within municipal publications;
 - The ordering of stationery.
- 6) 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 Corporate Resources, irrespective of any funding available to a Member, Candidate or Third Party Advertiser.
- 7) Contact information for residents such as newsletter or email distribution or circulation lists may not be used for Campaign Activities or provided to a campaign for the purposes of supporting or opposing a Candidate or ballot question. Further, contact information provided through social media which is owned and/or operated by the City or City Staff, shall similarly not be used for Campaign Activities or provided to a campaign.
- 8) Members during a municipal Election Campaign Period, or Candidates in other Election periods, may not hold ward meetings during this period.

6.2.4 Budget

- 1) From January 1 to Voting Day in the year of a municipal Election, budgets allocated to Members of Council 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.

6.2.5 Use of Employees, Volunteers and Contracted Service Providers

- 1) Members, Candidates and Third Party Advertisers shall not use the services of a Employee for any Campaign Activity during assigned hours working for the City, unless the 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 Contracted Service Providers 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.

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- 3) Members, Candidates and Third Party Advertisers shall not use the services of City Volunteers for any Campaign Activities while the City Volunteer is directly engaged in the delivery of goods or services on behalf of the City.

6.3 Employees and City Volunteers

The following applies to Employees and City Volunteers as indicated:

- 1) Employees shall not engage in any Campaign Activities in support of a Member, Candidate or Third Party Advertiser during assigned hours working for 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 Volunteers shall not engage in any Campaign Activities in support of a Member, Candidate or Third Party Advertiser during assigned hours volunteering for the City unless they have cancelled or terminated the assigned hours.
- 3) Employees and City Volunteers 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 an Employee or City Volunteer.
- 4) Employees and City Volunteers shall not engage in any Campaign Activities while using any vehicle, City Technology, or other Corporate Resource owned or leased by the City.
- 5) Employees and City Volunteers have the right to engage in political activities, including Campaign Activities; however, Employees shall be mindful of their responsibilities under the City of Oshawa's Employee Code of Conduct. Employees and City Volunteers 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, Employees and City Volunteers are strongly encouraged to discuss their proposed participation with their supervisor or manager to identify perceived or actual conflicts of interest that may arise.

7.0 Limitations

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

Nothing in this Policy will preclude Members from discharging their duties, or limit the role of the Mayor as the head of council and Chief Executive Officer of the City of Oshawa.

8.0 Policy Administration

This Policy is reviewed by the City Clerk or designate prior to the Municipal Election to ensure its effectiveness and compliance with legislation and current business processes or as required based on legislative changes.

The City Clerk is authorized to make minor or housekeeping amendments to this Policy, as required.

For further information regarding this Policy, contact City Clerk Services at 905-436-3311 or email at clerks@oshawa.ca.

9.0 Resources

Municipal Elections Act, 1996, as amended

City of Oshawa's Employee Code of Conduct

Municipalities: Ajax, Brantford, Hamilton, Kingston, Markham, Newmarket, Pickering, Toronto, Vaughan, and Whitby.

10.0 Approved

Authority City Council	Date	Signature

Ontario Municipalities Comparison Chart

Activity	Oshawa	Ajax	Brantford	Hamilton	Kingston	Markham	Newmarket	Pickering	Toronto	Vaughan	Whitby
Defining Candidates as	Municipal, Provincial, Federal	Municipal	Municipal	Municipal	Municipal, Provincial, Federal	Municipal, Provincial, Federal	Municipal, Provincial, Federal	Municipal	Municipal, Provincial, Federal	Municipal, Provincial, Federal	Municipal, Provincial, Federal
Applying to Members of	Council and Committee	Council	Council	Council	Council	Council	Council	Council	Council	Council	Council and Committee
Use of City office	Prohibited	Prohibited	Prohibited	Not addressed	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Renting City facilities	Prohibited	Prohibited	Permitted	Permitted	Permitted	Permitted with exceptions	Permitted with exceptions	Permitted with exceptions	Prohibited	Permitted with exceptions	Not addressed
Holding debates in City facilities	Prohibited	If approved by Clerk	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	If approved by Clerk	Permitted	Permitted	Not addressed
Exception for public right of way	Yes	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Not addressed	Yes	Yes	Yes
Posting City resources on website	Prohibited	Prohibited	Not addressed	Prohibited	Prohibited	Prohibited	Not addressed	Prohibited	Not addressed	Not addressed	Prohibited
Stating intention to be a Candidate	Prohibited	Prohibited	Prohibited	Not addressed	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Not addressed
Use of City photographs	Prohibited	Prohibited	Not addressed	Not addressed	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Use of contact information	Prohibited	Prohibited	Not addressed	Not addressed	Not addressed	Prohibited	Not addressed	Prohibited	Prohibited	Prohibited	Prohibited
Holding ward meetings	Prohibited	Prohibited	Not addressed	Not addressed	Not addressed	Prohibited	Prohibited	Not addressed	Permitted with exceptions	Not addressed	Not addressed