



# CITY OF HAMILTON

Corporate Services Department  
Clerk's Office

<b>TO:</b>	Chair and Members General Issues Committee
<b>COMMITTEE DATE:</b>	April 18, 2018
<b>SUBJECT/REPORT NO:</b>	Use of City Resources During an Election Period Policy (CL18004) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Tony Fallis, Manager, Elections/Print & Mail
<b>SUBMITTED BY:</b>	Rose Caterini City Clerk Corporate Services Department
<b>SIGNATURE:</b>	

## RECOMMENDATION

That the use of City Resources during an Election Period Policy, attached as Appendix A to Report CL18004, be approved.

## EXECUTIVE SUMMARY

Section 88.18 of the *Municipal Elections Act, 1996* (MEA) now requires municipalities and local boards, before May 1 of an election year, to establish rules and procedures with respect to the use of municipal or board resources during the election campaign period.

## FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Financial: NA  
Staffing: NA  
Legal: NA

## **HISTORICAL BACKGROUND (Chronology of events)**

Use of city resources during election time is currently enforced through the Council Code of Conduct (By-Law 16-290) and the Clarification of Councillor Sponsorships and Related Expenditures Report (FC11108)

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Background**

The MEA specifies that a municipality or local board cannot make a contribution to a municipal election candidate (Section 88.8 (4) or a registered third party (Section 88.12 (4).

A “contribution” includes:

- a) money, goods and services given to and accepted by or on behalf of a person for his or her election campaign (Section 88.15 (1))
- b) money, goods, and services given to and accepted by or on behalf of an individual, corporation or trade union in relation to third party advertisements (Section 88.15 (2)).

A “contribution” may take the form of money, goods or services, any use of the Corporation’s resources for an election campaign by a Member of Council who is a candidate, or by any candidate or any registered third party, would be a contribution by the City.

The current Council Code of Conduct (By-law 16-290) states the following:

### **SECTION 6: USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES**

6. (1) No Member of Council shall use, or permit the use of, City land, facilities, equipment, supplies, services, City employees or other resources, including City-owned materials, websites, Council transportation delivery services, or Councillor global budgets, for activities other than the business of the City.

(2) No Member of Council shall obtain financial gain from the use or sale of any City-developed intellectual property, (including inventions and creative writings or drawings), computer program, technical innovation, or other item capable of being patented, in which property remains in the exclusive ownership of the City.

**SECTION 7: ELECTION CAMPAIGN WORK**

7. (1) No Member shall use facilities, equipment, supplies, services or other resources of the City for any election campaign or campaign-related activities, except on the same basis (including paying a fee if any) as such resources are normally made available to members of the public.

(2) No Member shall use her or his newsletter or website linked through the City's website, for any election campaign or campaign-related activities.

(3) No Member shall use the services of any City employee for any election campaign or campaign-related activities during hours in which those City employees receive any compensation from the City.

The MEA specifies that a municipality or local board cannot make a contribution to a municipal election candidate (Section 88.8 (4) or a registered third party (Section 88.12 (4).

Clarification of Councillor Sponsorships and Related Expenditures Report (FC11108) contain the following Council approved guidelines:

Campaign Literature	Expenses incurred to produce or distribute campaign literature or materials will not be paid for by the City. In addition, newsletters may not be distributed after August 30 of an election year.
Sponsorship/Donations/Ticket Expense	Expenses related to sponsorships and donations (including the purchase of event tickets) will not be allowed after August 31 of an election year. Sponsorships/donations are not to be provided for any amounts levied in respect of any tax or user fees. Sponsorships/donations are limited to \$350 per named organization

The Policy, Use of City Resources During an Election Period Policy, attached as Appendix A to Report CL18004 is intended to be in addition to, and not replace, the above listed sections of the Council Code of Conduct or the Clarification of Councillor Sponsorships and Related Expenditures Report.

It is recognized that Members of Council are holders of their office until the end of their term. Nothing in this Policy shall preclude a Member of Council from performing their job, nor inhibit them from representing the interests of the constituents who elected them.

## **Purpose**

The purpose of this Policy is to provide a consistent approach and direction regarding the use of corporate resources during an election campaign.

## **Application and Scope**

This Policy applies to Members of Council, candidates, registered third parties in a municipal election and staff during a campaign period.

## **RELEVANT CONSULTATION**

Municipal Elections Act, 1996

Council Code of Conduct By-Law 16-290

Clarification of Councillor Sponsorships and Related Expenditures (FC11108)

Legal Services

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Consistent with the current MEA legislation and other municipalities in Ontario

## **ALTERNATIVES FOR CONSIDERATION**

NA

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

### **Our People and Performance**

*Hamiltonians have a high level of trust and confidence in their City government.*

---

*OUR Vision: To be the best place to raise a child and age successfully.*

*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

## USE OF CITY RESOURCES DURING AN ELECTION PERIOD POLICY

### 1. Purpose

The purpose of this Policy is to provide a consistent approach and direction regarding the use of City resources and those of its Local Boards during an election campaign. Should any Local Board or the City of Hamilton adopt its own policy governing the use of its resources for elections, such policy shall take precedence over this policy.

### 2. Application and Scope

This Policy applies to Members of Council and its Local Boards, candidates, registered third parties in a municipal election and staff during a campaign period.

Exceptions:

- 2.1 Municipal information prepared, posted and maintained by the City, names and photographs of Members of Council, their contact information, and a list of current representation on committees that is prepared, posted and maintained by the City.
- 2.2 Agendas and minutes of Council and Committee meetings.
- 2.3 Media releases and City materials that describe inter-governmental activities of the Mayor, in the capacity as Head of Council, and Chief Executive Officer of the City.

### 3. Outcome

This policy is intended to:

- 3.1 Ensure compliance with the *Municipal Elections Act, 1996*, in regards to the role of the City contributing to a municipal and trustee election campaign.
- 3.2 Ensure candidates and registered third parties are treated fairly and consistently.
- 3.3 Ensure the integrity of the election process is maintained at all times.
- 3.4 Establish the appropriate use of resources during an election period, in order to:
  - a. protect the interests of Members of Council, candidates, registered third parties, staff and the Corporation; and,
  - b. ensure accountable and transparent election practices.

## 4. Policy Statement(s)

### 4.1 Candidates, Registered Third Parties and Members of Council

In accordance with the MEA, Members of Council, candidates and/or registered third parties in a campaign period are not permitted to:

- (a) Use equipment, supplies, services, staff or other resources of the City for any campaign or campaign related activities;
- (b) Use City funds to acquire any resources for any campaign or campaign related activities, including ordering of stationery and office supplies;
- (c) Use City facilities or property for campaign events, unless the facility or property is rented in accordance with an agreement and the appropriate rates are paid;

Note: Such rental must be paid from the campaign account of the candidate or registered third party.

- (d) Use City funds to print or distribute any material that makes reference to, or contains the names or photographs, or identifies candidates or registered third parties;
- (e) Make reference to and/or identify any individual as a candidate, political party, registered third party or a supporter or opposition of a question on a ballot during an election, on any social media sites, blogs, and other new media created and managed by City employees;
- (f) Use a City brand, logo, crest, coat of arms, slogan or corporate program identifiers on any election campaign related material, either printed or on a campaign website; and,

Note: This provision includes the Municipal Election logo and any related identifiers.

- (g) Use City Information Technology (IT) assets, infrastructure, or data (e.g. computers, wireless devices, portals, corporate email, web pages, blogs, telephone) to communicate election related messages.

### 4.2 Advertising and Publications

The following services will be discontinued for Members of Council who are candidates as of August 30:

- (a) All forms of advertising, including municipal publications (e.g. paper or web-based); and,

- (b) All printing services, including printing, photocopying and distribution of publications, such as newsletters and ward reports, with the exception of communications specifically related to an authorized or scheduled City event (e.g. Public Meeting).

#### **4.3 Candidate and Registered Third Party Conduct**

- (a) Candidates and registered third parties may attend City organized events but are not permitted to campaign or disseminate election-related campaign materials;
- (b) A Member of Council attending an event as a representative of City Council is not to campaign while conducting City business. A Member of Council may speak at an event, as a representative of City Council, but is not permitted to use the event as an opportunity to campaign; and,
- (c) Candidates or registered third parties are not permitted to engage in campaign activities directed at City employees while those employees are at their workplace or engaged in work for the City.

#### **4.4 City Staff Conduct**

- (a) City staff shall not perform any work in support of a candidate or registered third party (e.g. campaign), during hours in which a person is receiving any compensation from the City, except during scheduled time off (e.g. scheduled vacation time). Staff shall not post or distribute campaign material on behalf of a candidate or registered third party at City facilities or on City property.

### **5. Roles and Responsibilities**

The City Clerk's Office is responsible for communicating this policy to candidates and registered third parties.

Chiefs, Commissioners, Directors, Managers and Supervisors are responsible for communicating this policy to their staff and to investigate reported contraventions to ensure that there is compliance.

Members of Council, election candidates, registered third parties and staff are accountable to comply with this policy.

## 6. Definitions

Campaign Period	<p>For candidates, the date on which the Nomination Form is filed until December 31 in the year of an election (unless a request for extension of campaign period has been filed).</p> <p>For registered third parties, the date on which the Notice of Registration as a third party advertiser is filed until December 31 in the year of an election (unless a request for extension of campaign period has been filed).</p>
Candidate	Person who has filed a Nomination Form as a candidate in the municipal election.
City	The City of Hamilton and its local boards.
Local Board	Means a local board as that term is defined in the <i>Municipal Affairs Act, R.S.O. 1990, C.M. 46</i> .
Nomination Day	4th Friday in July in the year of the election, as prescribed in the <i>Municipal Elections Act, 1996 (MEA)</i> .
Registered Third Party	An individual, corporation or trade union that has filed a Notice of Registration as a third-party advertiser in the municipal election.
Social Media	Online technologies and practices used to share opinions, insights, experiences, and perspectives through words, pictures, music, videos and audio. Social media can take many different forms, including but not limited to internet forums, web logs (blogs), social blogs, messaging, wikis, podcasts, pictures, video, music sharing, rating and bookmarking.
Staff	All full-time, part-time and contract employees of the City.