

<b>Use of City Resources During an Election</b>	City Clerk – Election Office
	<b>Policy No.</b> EO-02-21
	Revision Date: November 1, 2021
	Effective Date: December 15, 2021

## 1. Policy Statement

This policy establishes provisions respecting the use of City of Hamilton facilities, resources, assets, infrastructure and personnel for election purposes to maintain the independent and non-partisan functions of municipal government. This policy has been developed to adhere to the legislative requirements of section 88.18 of the *Municipal Elections Act, 1996 S.O. 1996, c. 32, Sched* (the “MEA”), to adopt and maintain a policy respecting the use of corporate resources as it relates to municipal elections.

In compliance with the MEA, public funds are not to be used for any election-related purposes, including the promotion of or opposition to the candidacy of a person for elected office. Section 29(1) of the *Election Finances Act, R.S.O. 1990, c. E7* and Section 363(1) of the *Canada Elections Act S.C. 2000, c.9* further prohibit municipal corporations from contributing to any candidate, constituency association, nomination contestant, leadership contestant, or political party.

## 2. Purpose

The purpose of the Use of City Resources During an Election Policy (the “Policy”) is to meet the City of Hamilton’s responsibilities under the *Municipal Elections Act, 1996*, the *Election Finances Act* and the *Canada Elections Act*, by outlining the requirements and restrictions relating to the use of city resources and city financial or in kind contributions to election campaigns for candidates, third parties, City of Hamilton employees, and members of the community.

## 3. Application

3.1 This Policy applies to Members of Council and its Local Boards, candidates for elected office, third parties and Staff during a campaign period.

3.2 The following exceptions apply to this policy:

- (a) 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.
- (b) Agendas and minutes of Council and Committee meetings.
- (c) 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.

#### 4. Authority/Legislative reference(s)

- Municipal Elections Act, 1996 S.O. 1996, c. 32, Sched
- Municipal Act, 2001, S.O. 2001, c. 25
- Election Finances Act, R.S.O. 1990, c. E.7
- Canada Elections Act, S.C. 2000, c.9
- Council Code of Conduct By-Law 16-290
- Election Sign By-Law (Under Review)
- Commercial Advertising and Sponsorship Policy
- Policy and Guidelines for Eligible Expenses for Elected Officials: Budget for the Office of the Mayor, Legislative Budget and Councillor Ward Office Budget
- City of Hamilton Code of Conduct for Employees Policy

#### 5. Definitions

<b>Campaign</b>	shall mean any campaign related to an election or by-election at the municipal, provincial and federal level of government, or a campaign related to the submission of a question on the ballot to the electors.
<b>Campaign Period</b>	<p>For a municipal and school board election, beginning May 1 in the year of an election, and ending on voting day.</p> <p>For a provincial election, beginning on the date the writ is issued and ending on voting day.</p> <p>For a federal election, beginning on the date the writ is issued and ending on voting day.</p> <p>For a ballot question, beginning the date on which Council passes the necessary by-law and ending on voting day.</p>

For a by-election, beginning the first date that nominations can be submitted and ending on voting day.

**Campaign Related Activities**

This can include, but is not limited to; events, canvassing, fundraising, research, purchasing, postering and social media posting, related to a candidate, political party or a question on the ballot in a municipal, provincial or federal election.

**Candidate**

means a Person whose nomination to run in a Municipal, Provincial or Federal election, including school board elections, has been certified or confirmed by the necessary Election official as required by the governing legislation

**City**

The City of Hamilton and its local boards.

**City-Organized Event**

Events that are funded and organized through the City. This may include events that are jointly organized with community organizations or with external sponsors only where the City is involved as a primary partner.

**City Resources**

includes tangible assets, (such as buildings, equipment, financial resources, and materials); intangible assets (such as technology, intellectual property); and staff of the municipality.

**Local Board**

a school board, municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof; ("conseil local") (*Municipal Act, 2001*, as amended)

**Third Party**

Any individual, corporation or trade union registered in accordance with Section 88.6 of the Municipal Elections Act, 1996 Section 37.5 of the Election

Finances Act, R.S.O. 1990, c.E.7, or Section 353 of the Canada Elections Act, S. C. 2000, c. 9.

**Staff**

All regular full and part time, temporary and contract employees, volunteers, students and interns at the City of Hamilton.

**6. Policy**

**6.1 General**

6.1.1 The City shall not provide city resources or financial or in-kind contributions to election campaigns for candidates or third parties in municipal, provincial or federal elections.

6.1.2 Members of Council must abide by the City of Hamilton's Council Code of Conduct, including the provisions of section 7;

(a) 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.

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

(c) 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.

6.1.3 During a campaign period, Members of Council, candidates, and third parties are not permitted to:

(a) Use equipment, assets, 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 approved corporate policies and procedures;

- (d) Use City funds to print or distribute any material that makes reference to, or contains the names or photographs, or identifies candidates or third parties;
- (e) Use a City brand, logo, crest, coat of arms, chain of office, slogan or corporate program identifiers, including the Municipal Election logo, on any election campaign related material, either printed or on a campaign website;
- (f) 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. Links to the City's website are permitted from a candidate's election website for the purpose of obtaining information about the election or sharing program/service information;
- (g) Use distribution lists or contact lists developed and/or paid for using corporate resources or funding; and
- (h) Use photographic images or videos produced for and owned by the City of Hamilton for any election purposes.

## **6.2 Advertising and Communications**

- 6.2.1 Campaign-related signs or materials shall not be displayed at or in City-owned or leased facilities, unless permitted under the Election Sign By-law and/or the Commercial Advertising and Sponsorship Policy.
- 6.2.2 Materials produced or prepared by Staff or Members of Council, shall not contain campaign-related materials and messaging.
  - (a) Notwithstanding section 6.2.2, City owned or produced material or websites prepared for the purposes of public education during an Election or for the administration of an election are permitted.
  - (b) Notwithstanding section 6.2.2, Members of Council are not prohibited from engaging with constituents on ward or city-related matters.
- 6.2.3 The following services will be discontinued for Members of Council who have been certified as a candidate in municipal election, as of August 31:

(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).

6.2.4 No Member of Council, including candidates for election and those acclaimed to office, may distribute newsletters following August 31 of an election year in adherence to the Policy and Guidelines for Eligible Expenses for Elected Officials: Budget for the Office of the Mayor, Legislative Budget and Councillor Ward Office Budget; and

6.2.5 Notwithstanding section 6.2.3 and 6.2.4, communications from Members of Council to constituents and use of city resources in response to a declared emergency are permitted with the approval of the City Manager in consultation with the City Clerk.

### **6.3 Member of Council, Candidate and Third Party Conduct**

6.3.1 Candidates and third parties may attend City-organized events but are not permitted to campaign or disseminate election-related campaign materials at such events;

6.3.2 A Member of Council attending an event as a representative of City Council is not permitted to campaign while in attendance at the event; and,

6.3.4 Members of Council, staff, candidates and third parties are not permitted to engage in campaign related activities directed at City employees while those employees are at their workplace or engaged in work for the City.

### **6.4 Staff Involvement in Election Campaigns**

6.4.1 Staff shall adhere to the Code of Conduct for Employees Policy and associated Schedule D: Outside Employment and Activity. Under these policies, City staff must ensure that their employment with the City is separate and distinct from any involvement in campaign related activities;

6.4.2 Staff shall not perform any work in support of a candidate or 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);

- 6.4.3 Staff shall not post or distribute campaign material on behalf of a candidate or third party at a City facility or while on City property;
- 6.4.4 Staff shall not use equipment, assets, supplies, services, staff or other resources of the City to support any campaign or campaign related activities;
- 6.4.5 Staff shall not make reference to and/or identify any individual as a candidate, political party, third party or a supporter or opposition of a question on a ballot during an election, at any meeting or any social media sites, blogs, and other new media created and managed by City employees; and
- 6.4.6 Staff must comply with all applicable City policies, including those pertaining to fee structures, advertising, and service levels. For greater clarity, Staff shall adhere to the requirements of their role and not provide greater or lesser service or support to candidates or third-parties than is normally provided to all clients.

## **7. Roles and Responsibilities**

- 7.1.1 The City Clerk's Office is responsible for communicating this policy to Members of Council, Staff, candidates and third parties.
- 7.1.2 People Leaders at the City of Hamilton are responsible for communicating this policy to their staff in advance of Nomination day. People Leaders are responsible for investigating reported contraventions of this policy by their staff to ensure compliance.
- 7.1.3 The City Clerk is authorized and directed to take such action as necessary to give effect to this policy, including investigating alleged contraventions of this policy and resolving any issues arising from the allegations. The Clerk may consult with the Integrity Commissioner regarding allegations made against Members of Council.
- 7.1.4 Where a breach of this policy has been verified by the City Clerk, parties who are responsible for the breach will be required to repay costs associated with the unauthorized use of city resources, as identified by established user fees, market rate, or as determined by the City Clerk.
- 7.1.5 Following the election, the City Clerk will report all verified breaches of the Use of City Resources During an Election.

## 8. Revision History

<b>Date</b>	<b>Description</b>
April 25, 2018	Policy approved by Council (General Issues Committee Report 18-009 - April 18, 2018)
October 2021	Review and Revisions to Policy
December 8, 2021	Reviewed at General Issues Committee
December 15, 2021	Council Approved