

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON SEPTEMBER 26, 2017
FROM:	CATHARINE SAUNDERS CITY CLERK
SUBJECT:	COUNCIL POLICY – USE OF CORPORATE RESOURCES DURING AN ELECTION PERIOD

RECOMMENDATION

That, on the recommendation of the City Clerk, the attached proposed by-law (Appendix “A”) BE INTRODUCED at the Municipal Council meeting to be held on October 3, 2017, to revoke, repeal and replace the Council policy entitled “Use of Corporate Resources During a Municipal Election Year” and replace it with a new Council Policy entitled “Policy for the Use of City of London Resources During a Municipal Election Period”.

BACKGROUND

The *Municipal Elections Act, 1996*, as amended (MEA) is very prescriptive with respect to the campaign of a municipal candidate. Section 88.8 of the MEA, prohibits a municipality from contributing to a municipal election campaign, as follows:

Who cannot contribute

(4) For greater certainty, and without limiting the generality of subsection (3), the following persons and entities shall not make a contribution:

1. A federal political party registered under the *Canada Elections Act* (Canada) or any federal constituency association or registered candidate at a federal election endorsed by that party.
2. A provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act*.
3. A corporation that carries on business in Ontario.
4. A trade union that holds bargaining rights for employees in Ontario.
5. The Crown in right of Canada or Ontario, **a municipality** or a local board. 2016, c. 15, s. 51.

Further, section 88.8 (1) of the MEA prohibits contributions to a campaign unless the person is a candidate.

Section 33 of the MEA also stipulates the period of nomination for a candidate:

Time for filing

(4) The nomination may be filed,

- (a) on any day on or after May 1 in the year of the regular election that is before nomination day, at a time when the clerk’s office is open; or
- (b) on nomination day, between 9 a.m. and 2 p.m. 1996, c. 32, Sched., s. 33 (4); 2009, c. 33, Sched. 21, s. 8 (15); 2016, c. 15, s. 23 (5).

DISCUSSION

The Municipal Council currently has a policy in place related to the use of City resources during an election period, however it is felt that some housekeeping changes could simplify and provide additional clarity, particularly as it relates to staff conduct and the time period during which the restrictions apply.

The ‘election year’ definition has been amended to reflect those situations where there is a by-election. There is no proposed change to the ‘election year’ definition during a regular election because the MEA restricts contributions until such time as a person is confirmed as a candidate. As such, the policy will continue to confirm actions in advance of any allowable campaigns.

It is recommended that the period in which this Policy would apply continue to commence on January 1 of the year in which a regular election is held.

Attached as Appendix "B" to this report, for your information, is a comparison of the current and proposed Policy.

CONCLUSION

The proposed policy amendments are in compliance with the *Municipal Elections Act, 1996*, as revised, and do not contain any limitations or restrictions beyond what is possible under the MEA.

PREPARED AND SUBMITTED BY:	RECOMMENDED BY:
BARB WESTLAKE-POWER MANAGER, LEGISLATIVE SERVICES	CATHY SAUNDERS, CITY CLERK

APPENDIX "A"

Bill No.
2017

By-law No. CPOL.-

A by-law to revoke and repeal Council policy entitled "Use of Corporate Resources During a Municipal Election Year" and replace it with a new Council policy entitled "Policy for the Use of City of London Resources During a Municipal Election Period".

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to revoke and repeal Council policy entitled "Use of Corporate Resources During a Municipal Election Year" and replace with a new policy entitled "Policy for the Use of City of London Resources During a Municipal Election Period";

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Any policy of The Corporation of the City of London approved, adopted, or amended by Municipal Council on a day prior to the day this by-law is in force and effect, pertaining to Use of Corporate Resources During a Municipal Election Year is hereby revoked.
2. Any by-law of The Corporation of the City of London in force and effect on a day prior to the day this by-law is in force and effect, which approves, amends or adopts a Council policy pertaining to the Use of Corporate Resources During a Municipal Election Year is hereby repealed.
3. The policy entitled "Policy for the Use of City of London Resources During a Municipal Election Period", attached hereto as Appendix 'A(1)', is hereby adopted.
4. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on October 3, 2017.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – October 3, 2017
Second Reading – October 3, 2017
Third Reading – October 3, 2017

Appendix “A(1)”

Policy for the Use of City of London Resources During a Municipal Election Period

Purpose:

To clarify the restrictions pertaining to the use of City of London resources during an election period.

Definitions:

For the purposes of this policy,

“Campaign-related activities” shall mean any activities that may directly or indirectly promote any candidate in a Municipal Election.

“City” shall mean The Corporation of the City of London

“City resources” shall mean the facilities, equipment, property, supplies, services, systems, software, media inventory, brand, staff or financial resources of The Corporation of the City of London.

“election period” shall mean the period beginning on January 1st of the year during which a regular municipal election is held, or on Nomination Day for a municipal by-election, and ending upon the City Clerk’s certification of the election results.

Application:

This policy applies to an acclaimed Member of Council, a Member of Council not seeking re-election, a Member of Council seeking re-election, any other election candidate and any employee of The Corporation of the City of London.

Policy:

1. Any acclaimed Member of Council, Member of Council not seeking re-election, Member of Council seeking re-election, other election candidate and any employee of The Corporation of the City of London shall adhere to the provisions of the *Municipal Elections Act, 1996*, as amended, the Code of Conduct for Members of Council and the Code of Conduct for Employees, all of which restrict the use of City resources during an election period.
2. City resources, assets and funding restricted from use for election-related purposes during an election period include, but are not limited to:
 - City staff
 - City property, facilities and/or equipment, except in those cases where use of the property, facilities and/or equipment are rented in accordance with City procedures applicable to the general public
 - City funds
 - Print or electronic materials paid for by the City promoting a Member of Council
 - Any photos or videos produced by the City, including electronic images and videos
 - City mail room supplies and services
 - City print room supplies and services
 - City technical services and equipment (e.g. computers, laptops, mobile devices and applications such as voice mail, e-mail, Internet and Intranet, City web pages and domains, etc.)
 - City brand (e.g. logos, crest, etc.)
 - Lists and files produced using City resources, with the exception of lists produced for election purposes in accordance with the *Municipal Elections Act, 1996* (e.g. Voters List).
3. City staff may not canvass or actively work in support of a municipal candidate during business hours unless they are on leave of absence without pay, lieu time, overtime leave or vacation leave.
4. Campaign-related signs or materials may not be displayed at or in City facilities and, where permitted for display, shall comply with the provisions of the Election Sign By-law.

5. No Council Member shall distribute, in print or electronic form, material paid for by the City that illustrates, references, promotes, profiles or otherwise relays information about an individual that is, or will be, a registered candidate in an election, with the exception of official reports and/or minutes of City Council and Standing Committee meetings.
6. Nothing in this Policy is intended to prohibit a Member of Council from performing their job as an elected representative to represent the interests of their constituents regarding corporate business.

APPENDIX "B"

5(28) Policy for the Use of City of London Corporate Resources During a Municipal Election Year Period

Purpose:

~~To clarify that an acclaimed member of Council, a member of Council not seeking re-election, all members of Council seeking re-election and any other election candidate are required to follow the provisions of the *Municipal Elections Act, 1996*, as amended, thereby requiring that none of the aforementioned individuals shall:~~

- ~~• use the facilities, equipment, supplies, services, staff or other resources of the City (including Councillor newsletters and Councillor budgets) for any election campaign or election campaign-related activities.~~
- ~~• undertake campaign-related activities on City property during regular working hours.~~
- ~~• use the services of persons during hours in which those persons receive any compensation from the City.~~

To clarify the restrictions pertaining to the use of City of London resources during an election period.

Definitions:

For the purposes of this policy,

"Campaign-related activities" shall mean any activities that may directly or indirectly promote any candidate in a Municipal Election.

"City" shall mean The Corporation of the City of London

"City resources" shall mean the facilities, equipment, property, supplies, services, systems, software, media inventory, brand, staff or financial resources of The Corporation of the City of London.

"election period" shall mean the period beginning on January 1st of the year during which a regular municipal election is held, or on Nomination Day for a municipal by-election, and ending upon the City Clerk's certification of the election results.

Election Year:

~~For the purposes of this policy, an election year begins upon the first day on which nomination papers may be filed and ends on Election Day.~~

Application:

This policy **applies** ~~is applicable~~ to an acclaimed Member of Council, a Member of Council not seeking re-election, all Members of Council seeking re-election and any other election candidate **and any employee of The Corporation of the City of London.**

Policy:

1. **Any acclaimed Member of Council, Member of Council not seeking re-election, Member of Council seeking re-election, other election candidate and any employee of The Corporation of the City of London shall adhere to the provisions of the *Municipal Elections Act, 1996*, as amended, the Code of Conduct for Members of Council and the Code of Conduct for Employees, all of which restrict the use of City resources during an election period.**
4. ~~That, consistent with the *City's Code of Conduct* and *Code of Ethics* and in accordance with the provisions of the *Municipal Elections Act, 1996*, as amended:~~
 - (i) ~~corporate resources, assets and funding may not be used for any election-related purposes, including, but not limited to:~~

- ~~• City staff;~~
- ~~• City property, facilities and equipment;~~
- ~~• City funds;~~
- ~~• any photos or videos produced by the City, including electronic images and videos;~~
- ~~• City mail room and services;~~
- ~~• City technical services systems including, but not limited to, all computer and telephone network systems (including laptops and Blackberries) and applications, including voice mail, email, internet, and intranet; and~~
- ~~• any mailing lists/data files produced by the Civic Administration.~~

2. **City resources, assets and funding restricted from use for election-related purposes during an election period include, but are not limited to:**

- **City staff**
- **City property, facilities and/or equipment, except in those cases where use of the property, facilities and/or equipment are rented in accordance with City procedures applicable to the general public**
- **City funds**
- **Print or electronic materials paid for by the City promoting a Member of Council**
- **Any photos or videos produced by the City, including electronic images and videos**
- **City mail room supplies and services**
- **City print room supplies and services**
- **City technical services and equipment (e.g. computers, laptops, mobile devices and applications such as voice mail, e-mail, Internet and Intranet, City web pages and domains, etc.)**
- **City brand (e.g. logos, crest, etc.)**
- **Lists and files produced using City resources, with the exception of lists produced for election purposes in accordance with the *Municipal Elections Act, 1996* (e.g. Voters List).**

3.(f) **City staff may not canvass or actively work in support of a municipal candidate during business normal working hours unless they are on a leave of absence without pay, lieu time, overtime leave or vacation leave;**

~~candidates, including Members of Council, may not use City provided facilities for any election-related purposes. Campaign-related signs or any other elected-related material may not be displayed in City provided facilities.~~

~~(ii) Members of Council may not:~~

- ~~(a) print or distribute any material paid for by City funds that illustrates that a Member of Council or any other individual is registered in any election, or where they will be running for office;~~
- ~~(b) profile (name or photograph), or make reference to, in any material paid by City funds, any individual who is registered as a candidate in any election;~~
- ~~(c) print or distribute any material using City funds that makes reference to, identifies or contains the names or photographs of registered candidates for municipal elections, with the exception of minutes and reports of City Council and Committee meetings;~~

~~(iii) Members of Council are responsible for ensuring that the content of any communications material, such as newsletters, advertising, etc., that is hosted or distributed by the City, is not directly election-related.~~

~~(iv) Members of Council may not print or distribute any election-related material using City funds.~~

~~(v) in any material printed or distributed by the City, candidates are not permitted to:~~

- ~~(a) illustrate that an individual (either a Member of Council or any other individual) is a candidate registered in any election;~~
- ~~(b) identify where they are running or where any other individual will be running~~

~~for office; or~~

~~(c) profile or make reference to candidates in any election.~~

~~(vi) web sites or domain names that are funded by the City may not include any election-related campaign material;~~

~~(vii) the City's voice mail system may not be used to record election-related messages nor the computer network used (including the City's e-mail system) to distribute election-related correspondence;~~

~~(viii) the City's logo, crest, coat of arms, or other branding may not be printed or distributed on any election materials or included on any election campaign-related website, except in the case of a link to the City's web site to obtain information about the municipal election; and~~

~~(ix) photographs produced for and owned by the City may not be used for any election purposes.~~

4. **Campaign-related signs or materials may not be displayed at or in City facilities and, where permitted for display, shall comply with the provisions of the Election Sign By-law.**
5. **No Council Member shall distribute, in print or electronic form, material paid for by the City that illustrates, references, promotes, profiles or otherwise relays information about an individual that is, or will be, a registered candidate in an election, with the exception of official reports and/or minutes of City Council and Standing Committee meetings.**
- 6.2. **Nothing in this Policy shall preclude is intended to prohibit a Member of Council from performing their job as a Councillor an elected representative to represent, nor inhibit them from representing the interests of the constituents who elected them. regarding corporate business.**