

<b>TO:</b>	<b>CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON AUGUST 13, 2019</b>
<b>FROM:</b>	<b>CATHARINE SAUNDERS CITY CLERK</b>
<b>SUBJECT:</b>	<b>COUNCIL POLICY – USE OF CORPORATE RESOURCES FOR ELECTION PURPOSES</b>

<b>RECOMMENDATION</b>
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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 August 27, 2019 to amend By-law No. CPOL.-230-519, being “Policy for the Use of City of London Resources For Municipal Election Purposes” by renaming the Council Policy “Use of City of London Resources For Election Purposes” and to update the Policy to provide additional clarity, particularly as it relates to provincial and federal election campaigns and Registered Third Parties.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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Corporate Services Committee – September 26, 2017 – Council Policy – Use Of Corporate Resources During An Election Period.

<b>BACKGROUND</b>
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The purpose of this policy is to provide clear direction to Candidates, Registered Third Party Advertisers and City employees regarding the use of corporate resources for an election campaign. This policy ensures compliance with all applicable legislation, including the *Municipal Elections Act, 1996* (the “MEA”). This policy applies to municipal (including school board), provincial and federal elections or by-elections, as well as to campaigns related to questions on the ballot.

Section 88.18 of the amended MEA requires Ontario municipalities to establish “rules and procedures with respect to the use of municipal or board resources, as the case may be, during the election campaign period.” Additionally, 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.

The *Election Finances Act* (Ontario), and the *Canada Elections Act* similarly prohibit a municipality from making contributions in any form to a Candidate or Registered Third Party for provincial or federal election campaigns.

The City recognizes that Members of Council must be able to perform the duties of their office until the end of their term and supports them in continuing to fulfill their responsibilities in their role as elected officials. Nothing in this policy shall preclude a Member of Council from performing their duty as an elected official, nor inhibit them from representing the interests of their constituents.

<b>DISCUSSION</b>
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The Municipal Council currently has a policy in place related to the use of City resources during an election period. This policy has been updated to provide additional clarity, particularly as it relates to provincial and federal election campaigns and Registered Third Parties to which this policy applies. Specifically, the definitions of Election Campaign and Registered Third Party have been updated as follows:

- **Election Campaign** – the current definition has been amended to include all elections, including municipal, provincial, and federal election campaigns, as well as campaigns related to a question on the ballot. This will affect Members of Council who choose to become candidates in any election.
- **Registered Third Party** – a new definition has been added to this policy to reflect recent amendments made to the *Municipal Elections Act*, the *Election Finances Act* and the *Canada Elections Act, 1996* regarding election-related advertising by non-candidates.

The proposed changes are consistent with the principles of the *Municipal Elections Act, 1996*, applicable federal and provincial legislation, as well as City of London policies and procedures. All provisions contained within this policy will assist with preserving the integrity in the elections process while maintaining that:

- Corporate Resources shall not be used to promote or provide an unfair advantage to any Candidate, political party, constituency association, Registered Third Party, or a person or group supporting or opposing a question on a ballot;
- Members of Council shall not be precluded from performing their duties as an Elected Official or representing the interests of their constituents; and,
- Information and communication related to an election shall continue to be open and accessible to the public.

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

<b>CONCLUSION</b>
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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 prescribed under the MEA.

<b>PREPARED BY:</b>	<b>SUBMITTED BY:</b>
<b>JEANNIE RAYCROFT MANAGER, LICENSING AND ELECTIONS</b>	<b>SARAH CORMAN MANAGER, LICENSING AND ELECTIONS</b>
<b>RECOMMENDED BY:</b>	
<b>CATHARINE SAUNDERS CITY CLERK</b>	

## APPENDIX “A”

Bill No.  
2019

By-law No. CPOL.-

A by-law to amend By-law No. CPOL.-230-519, being “Policy for the Use of City of London Resources For Municipal Election Purposes” by renaming the Council Policy “Use of City of London Resources For Election Purposes” and to update the Policy to provide additional clarity, particularly as it relates to provincial and federal election campaigns and Registered Third Parties.

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 Municipal Council of The Corporation of the City of London wishes to amend By-law No. CPOL.-230-519, being “Policy for the Use of City of London Resources For Municipal Election Purposes” by renaming the Council Policy “Use of City of London Resources For Election Purposes” and to update the Policy to provide additional clarity, particularly as it relates to provincial and federal election campaigns and Registered Third Parties;

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

1. By-law No. CPOL.-230-519, being “Policy for the Use of City of London Resources For Municipal Election Purposes” is hereby amended by deleting Schedule “A” to the By-law in its entirety and by replacing it with the attached new Schedule “A”.
2. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on August 27, 2019.

Ed Holder  
Mayor

Catharine Saunders  
City Clerk

First Reading – August 27, 2019  
Second Reading – August 27, 2019  
Third Reading – August 27, 2019

## SCHEDULE “A”

### Use of City of London Resources for Election Purposes

**Policy Name:** Use of City of London Resources for Election Purposes

**Legislative History:** Adopted October 30, 2017 (By-law No. CPOL.-230-519)

**Last Review Date:** August 13, 2019

**Service Area Lead:** City Clerk

#### 1. Policy Statement

- 1.1 This policy clarifies the restrictions pertaining to the use of City of London resources for directly or indirectly benefitting municipal, school board, provincial and federal election campaigns or campaigns related to a question on a ballot.

#### 2. Definitions

For the purposes of this policy

- 2.1 **Campaign-related activities** – shall mean any activities that may directly or indirectly benefit a municipal, provincial, or federal election campaign.
- 2.2 **Campaign-related signs** – shall mean any material, regardless of format, that promotes or opposes any Candidate, Third Party Advertiser or a question on a ballot, or any material that may directly or indirectly benefit an election campaign.
- 2.3 **Candidate** – means any person who has filed and not withdrawn a nomination for an elected office at the municipal, provincial or federal level in an election or by-election.
- 2.4 **City** - shall mean The Corporation of the City of London.
- 2.5 **City resources** - shall include, but not be limited to City employees, events organized or funded solely or jointly by the City, City facilities, City funds, City information and City infrastructure.
- 2.6 **Election Campaign** – 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.
- 2.7 **Third Party Advertiser** means 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*.
- #### 3. Applicability
- 3.1 This policy shall apply to the use of City resources by any party in a manner that would directly or indirectly benefit a municipal, provincial, or federal election campaign or campaigns related to a question on a ballot.
- #### 4. The Policy
- 4.1 This policy sets out provisions for the use of City facilities, resources and infrastructure to indirectly or directly benefit an election campaign, in order to preserve the integrity in the elections process and to comply with the *Municipal Elections Act, 1996*, the *Election Finances Act* and the *Canada Elections Act*. This policy allows the City to satisfy its' legal responsibility to ensure that no Candidate, registered Third Party Advertiser or political party is provided with an unfair advantage.

Without exception, all parties shall adhere to the applicable provisions of the *Municipal Elections Act, 1996*, as amended, the *Election Finances Act* (Ontario), the *Canada Elections Act* (Canada), the Declaration of Office for Members of Council, the Code of Conduct for Members of Council, and the Code of Conduct for Employees regarding the use of City resources.

- 4.2 City resources, assets and funding that shall not be used by any party to directly or indirectly benefit an election campaign 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 and/or use of the property, facilities and/or equipment is permitted under other legislation (e.g. Election Sign By-law, etc.)
  - City funds
  - Print or electronic materials paid for by the City promoting an individual
  - 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).
- 4.3 City staff shall not engage in any campaign-related activities during business hours unless they are on paid or unpaid leave.
- 4.4 Campaign-related signs or materials shall not be displayed at or in City-owned or leased facilities, unless otherwise permitted by legislation, and, where permitted for display, shall comply with the provisions of the Election Sign By-law.
- 4.5 No individual 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 may directly or indirectly benefit an election campaign. This does not limit a Member of Council from communicating with constituents on matters of interest that are relevant to the business of the City and fall within the fiduciary responsibility of the Member of Council, providing that these do not promote the personal interests of a Member of Council.
- 4.6 No individual shall host a town hall or ward meeting that would directly or indirectly benefit an election campaign. Rather, town hall or ward meetings shall be focused on the interests of the constituency regarding City business.
- 4.7 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 City business, during their period of office.

## APPENDIX “B”

### ~~Policy for the~~ Use of City of London Resources for ~~Municipal~~ Election Purposes

**Policy Name:** Policy for the Use of City of London Resources for ~~Municipal~~ Election Purposes

**Legislative History:** Adopted October 30, 2017, (By-law No. CPOL.-230-519

**Last Review Date:** ~~October 2017~~ August 13, 2019

**Service Area Lead:** City Clerk

#### 1. Policy Statement

- 1.1 This policy clarifies the restrictions pertaining to the use of City of London resources for directly or indirectly benefitting municipal, school board, provincial and federal election campaigns or campaigns related to a question on a ballot. ~~a municipal election campaign.~~

#### 2. Definitions

For the purposes of this policy

- 2.1 **Campaign-related activities** – shall mean any activities that may directly or indirectly benefit a municipal, provincial, or federal election campaign. ~~shall mean any activities that may directly or indirectly benefit a municipal election campaign.~~
- 2.2 **Campaign-related signs** – shall mean any material, regardless of format, that promotes or opposes any Candidate, Third Party Advertiser or a question on a ballot, or any material that may directly or indirectly benefit an election campaign.
- 2.3 **Candidate** – means any person who has filed and not withdrawn a nomination for an elected office at the municipal, provincial or federal level in an election or by- election
- 2.42 **City** - shall mean The Corporation of the City of London.
- 2.53 **City resources** - shall include, but not be limited to City employees, events organized or funded solely or jointly by the City, City facilities, City funds, City information and City infrastructure.
- 2.6 **Election Campaign** – 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.
- 2.7 **Third Party Advertiser** means 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.

#### 3. Applicability

- 3.1 This policy shall apply to the use of City resources by any party in a manner that would directly or indirectly benefit a municipal, provincial, or federal election campaign or campaigns related to a question on a ballot. ~~This policy shall apply to the use of City resources by any party in a manner that would directly or indirectly benefit a municipal election campaign.~~

#### 4. The Policy

- 4.1 This policy sets out provisions for the use of City facilities, resources and infrastructure to indirectly or directly benefit an election campaign, in order

to preserve the integrity in the elections process and to comply with the *Municipal Elections Act, 1996*, the *Election Finances Act* and the *Canada Elections Act*. This policy allows the City to satisfy its' legal responsibility to ensure that no Candidate, registered Third Party Advertiser or political party is provided with an unfair advantage.

Without exception, all parties shall adhere to the applicable provisions of the *Municipal Elections Act, 1996*, as amended, the *Election Finances Act (Ontario)*, the *Canada Elections Act (Canada)*, the Declaration of Office for Members of Council, the Code of Conduct for Members of Council and the Code of Conduct for Employees, regarding the use of City resources.

4.2 City resources, assets and funding that shall not be used by any party to directly or indirectly benefit an ~~municipal~~ election campaign 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 and/or use of the property, facilities and/or equipment is permitted under other legislation (e.g. Election Sign By- law, etc.)
- City funds
- Print or electronic materials paid for by the City promoting an individual
- 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).

4.3 City staff shall not engage in any campaign-related activities during business hours unless they are on paid or unpaid leave. ~~City staff shall not canvass or actively work in support of a municipal candidate during business hours unless they are on paid or unpaid leave.~~

4.4 Campaign-related signs or materials shall not be displayed at or in City-owned or leased facilities, unless otherwise permitted by legislation, and, where permitted for display, shall comply with the provisions of the Election Sign By-law.

4.5 No individual 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 may directly or indirectly benefit an ~~municipal~~ election campaign. This does not limit a Member of Council from communicating with constituents on matters of interest that are relevant to the business of the City and fall within the fiduciary responsibility of the Member of Council, providing that these do not promote the personal interests of a Member of Council.

4.6 No individual shall host a town hall or ward meeting that would directly or indirectly benefit an ~~municipal~~ election campaign. Rather, town hall or ward meetings shall be focused on the interests of the constituency regarding City business.

- 4.7 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 City business, during their period of office.