



CITY OF HAMILTON
CORPORATE SERVICES
Office of the City Clerk

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	December 8, 2021
SUBJECT/REPORT NO:	Use of City Resources During an Election (FCS21113) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Aine Leadbetter (905) 546-2424 Ext. 2753
SUBMITTED BY:	Andrea Holland City Clerk
SIGNATURE:	

RECOMMENDATION

That the revisions to the Use of City Resources during an Election Period Policy, attached as Appendix A to Report FCS21113, be approved

EXECUTIVE SUMMARY

In preparation for the 2022 Municipal Election and in line with requirements under the Municipal Elections Act, 2018, staff has conducted a review and made revisions to the Use of City Resources during an Election Period Policy. Several revisions to the policy are being recommended to ensure greater alignment with federal and provincial legislation and existing City by-laws and policies; to further clarify definitions, roles and responsibilities; and to provide greater direction on City resources restricted from use to support an election campaign.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Not Applicable

Staffing: Not Applicable

Legal: Not Applicable

HISTORICAL BACKGROUND (Chronology of events)

In advance of the 2018 Municipal Election, changes to the Municipal Elections Act, 1996 (MEA) in section 88.18 were made that required municipalities and local boards to establish rules and procedures with respect to the use of municipal or board resources during the election campaign period. In response to this requirement, Staff developed the Use of City Resources During an Election Policy, which was reviewed at the April 18, 2018 General Issues Committee (GIC) and the subsequently approved at Council on April 25, 2018.

Prior to the inclusion of section 88.18 of the MEA in 2018 and the development of the Use of City Resources during an Election Policy, the use of corporate resources was governed under the Council Code of Conduct, the Employee Code of Conduct, and through the Policy and Guidelines for Eligible Expenses for Elected Officials: Budget for the Office of the Mayor, Legislative Budget and Councillor Ward Office Budget.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Municipal contributions to election campaigns are regulated under the Municipal Elections Act, The Election Finances Act, and The Canada Elections Act.

Under section 88.18 of the Municipal Elections Act, 1996, prior to May 1st of a regular election year, municipalities and local boards are required to establish rules and procedures with respect to the use of municipal or board resources during the election campaign period.

The Election Finances Act, R.S.O. 1990 specifies that only individuals may contribute to a candidate or political party in the Province of Ontario in accordance with Section 16 (1) Contributions to parties, constituency associations, nomination contestants, candidates and leadership contestants registered under this Act may be made only by persons individually. 2016, c. 22, s. 10 (1).

The Canada Elections Act, S.C. 2000, c. 9, as amended, also restricts contributions to candidates and political parties to individuals as set out in Section 363(1) which states that no person or entity other than an individual who is a Canadian citizen or is a permanent resident as defined in subsection 2(1) of the Immigration and Refugee Protection Act shall make a contribution to a registered party, a registered association, a nomination contestant, a candidate or a leadership contestant.

RELEVANT CONSULTATION

Internal staff from Legal Services and Human Resources were consulted in the review and redraft of this policy.

Staff further consulted with the City's municipal counterparts and undertook a thorough review of Use of City Resources Policies from municipalities across the province.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

While it is a specific requirement under the MEA that municipalities establish a policy to regulate the use of municipal resources during an election, regardless of this requirement, specifying restrictions is good practice to ensure that candidates, third parties, and employees of the municipality are clear on requirements, to ensure that elections are free and fair for all, and to further eliminate any perception that municipalities are supporting some candidates or third parties over others. This is good practice not only for municipal and school board elections but ensuring that requirements and restrictions are clearly applicable to campaigns at the provincial and federal level will ensure consistency in the municipality's approach and clarity for all parties involved. With these objectives in mind, Staff are recommending some amendments to the current Use of City Resources During an Election Policy in advance of the 2022 Municipal Election.

Much of the policy remains the same, including the overall intent to prevent public funds from being used for any election-related purposes, including the promotion of or opposition to the candidacy of a person for elected office. Recommended amendments to the Use of City Resources During an Election Policy are highlighted in the attached Appendix A to Report FCS21113, and include the following changes and additions:

- Ensuring that the application of the policy to Federal and Provincial elections is clarified, including links to the Canada Elections Act and the Elections Finance Act;
- Alignment to current City of Hamilton policies and by-laws that provide some governance surrounding election campaign periods, including; the Council Code of Conduct By-Law, the Election Sign By-Law (Under Review), the Commercial Advertising and Sponsorship Policy, 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 the Code of Conduct for Employees Policy;
- Updated and enhanced definitions, inclusive of federal and provincial legislation;
- Inclusion of language to add the use of City assets such as photography, video, images, and distribution lists;
- Discussion on advertising and communication, including links to the City's Sign By-Law and advertising policies;
- Clarification of roles and responsibilities, including the responsibilities of City staff and leaders; and;

- The inclusion of an investigation and reporting process.

ALTERNATIVES FOR CONSIDERATION

N/A

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.

APPENDICES AND SCHEDULES ATTACHED

Appendix A: Use of City Resources During an Election Policy