



Use of Corporate Resources for Election Purposes

Policy Category: *Governance - Elections*

Approving Authority:

Council

Effective Date:

2017

Approved or Last Reviewed Date:

N/A

Next Review Year:

2021

Area(s) this policy applies to:

Council Members, City Staff and Volunteers, Candidates, Registered Third Party Advertisers

Owner Department:

Legislative Services & Corporate Communications

Related Policies:

- *Council Code of Conduct*
- *Staff Code of Ethics and Conduct*
- *Business Expense and Conference Policy*
- *Accountability & Transparency Policy*
- *Municipal Elections Act, 1996*
- *Election Finances Act, 1990*
- *Canada Elections Act, 2000*

Please direct any questions about this policy to the Owner Department.

1. Purpose Statement

The purpose of this Policy is to provide City **Councillors**, **City Staff** and **City Volunteers** with guidelines on the use of municipal corporate resources for election purposes to ensure compliance with the *Council Code of Conduct*, the *Municipal Elections Act, 1996* (the 'Act'), and other applicable federal and provincial legislation. This Policy should be interpreted as a general prohibition against the use of corporate resources for any election-related purpose.

2. Applicability and Scope

This Policy applies to City **Councillors**, **City Staff** and **City Volunteers** who are running for office (or assisting someone who is running for office) in municipal, regional, school board, provincial, or federal election (or who have been acclaimed), or who seeking a political party leadership or nomination. Nothing in this Policy prevents the Mayor or Councillors from performing their legislated duties or representing constituent interests throughout their entire term of office.

3. Background

The *Municipal Elections Act* prohibits a municipality from contributing resources to a **Candidate** on the basis that the use of corporate resources would provide a distinct advantage to **Candidate(s)** able to access them. Corporate resources include discretionary budgets, **City** facilities and equipment, **City Staff**, **City Volunteers** and **City**-funded programs and services. corporate resources also include City funded communication resources, which include but are not limited to, any material sponsored, printed or distributed by the City, the City's voice mail system, websites or domain names that are funded by the City, and the City's computer network or related IT systems. It is the responsibility of City Councillors,

City Staff and City Volunteers to follow the protocol outlined in this Policy to ensure a fair and transparent election process.

4. Definitions

‘Candidate’ means any person who has filed the prescribed nomination form to run in a municipal, regional, school board, provincial or federal election or by-election or for a position in a political party.

‘Campaigning’ means any election-related activity for the purpose of supporting or opposing the Election of a Candidate or a question on the ballot, and includes, without limiting the generality of the foregoing, the production and distribution of materials (paper and electronic), advertising (including any form of electronic advertising), any form of promotion (including by means of social media), display of signage, etc.

‘City’ means The Corporation of the City of Markham.

‘City Staff’ means individuals who are hired on a temporary, part-time, contract, or permanent basis by the City, and who receive financial payment from the City for their employment.

‘City Volunteer’ means an individual who performs duties on behalf of Councillors or the City and who does not receive financial payment from the City for their work as a volunteer.

‘City Clerk’ means the City Clerk and Returning Officer of the City.

‘Council’ means the Council of the City.

‘Councillor’ means a member of Markham City Council.

‘Discretionary Expense’ means an expense that is incurred by an individual COUNCILLOR and is charged to an individual Councillor’s discretionary account. The responsibility for determining the appropriateness of a Discretionary Expense rests with the individual Councillor.

‘Election’ means an election or by-election at the municipal, school board, regional, provincial, or federal level of government, political party nomination or leadership contest, or the submission of a question or by-law to electors.

‘Election Period’ means the official campaign period of a municipal, regional, provincial or federal election, by-election or political party contest as outlined below:

Regular Municipal Election (Mayor, Regional Councillor, Local Councillor, and School Board Office)	The Election Period commences on the first day nominations may be filed and ends on Voting Day.
Municipal By-Election (Mayor, Regional Councillor, Local Councillor, and/or School Board office)	The Election Period commences on the first day nominations may be filed and ends on Voting Day.

Provincial or Federal Election	The Election Period commences the day the writ for the Election is issued and ends on Voting Day.
Provincial party leadership and nomination contests	The Election Period commences with the date of registration as a Candidate with the Chief Electoral Officer of Ontario and ends after the date fixed for the leadership vote as filed with the Chief Electoral Officer of Ontario.
Federal party leadership and nomination contests	The Election Period commences when a contestant first receives contributions, incurs expenses or borrows money or is deemed to be a contestant in accordance with sections 478.2 (2) and 476.2 of the <i>Canada Elections Act</i> and ends with the date of selection.

‘Election-Related’ means anything that relates directly to an election.

‘Newsletter’ means a printed or electronic publication produced and distributed by or on behalf of a Councillor (and using City Resources) to provide information to constituents.

‘Nomination Day’ means the date in a regular election or a by-election (as defined by municipal, provincial, or federal legislation) when nominations for office close.

‘Nomination Period’ is the period of time between the opening of nominations and Nomination Day in a regular election or by-election (as defined by the applicable municipal, provincial, or federal legislation).

‘Opening of Nominations’ means the first date in a regular election or by-election (as defined by the applicable municipal, provincial, or federal legislation) when nominations for office can be filed.

‘Registered Third Party’ means an individual, corporation, or other entity engaging in election-related activities as defined by the applicable municipal, provincial, or federal legislation.

5. Policy Statements

1. General Provisions

- 1.1. Pursuant to the **Act**, the **City** shall not make a contribution, including money, goods and services, to any **Candidate, Registered Third Party**, or a supporter of a question on the ballot during an **Election**.
- 1.2. **Candidates** may not use corporate resources (including **City** communication resources) for **Election** purposes.
- 1.3. **City Staff** may not work in support of a **Candidate** during their normal working hours, unless they are on a leave of absence without pay, lieu time, float day, or vacation leave.
- 1.4. **City Staff** may not use corporate resources, including **City** communication resources, for the purpose of **Campaigning** for, or assisting in the campaign, of a **Councillor(s)** and/or **Candidate(s)**.
- 1.5. **Councillors** who are also **Candidates** shall comply with the *Council Code of Conduct*, including but not limited to sections 9, 12 and 13, and shall not use their influence to compel staff to assist in the campaign of a **Councillor**.

- 1.6. **Candidates** may not undertake any **Election-Related** activities or **Campaigning** in the workplace.
- 1.7. **Candidates** may not undertake any **Election-Related** activities or **Campaigning** on any **City** property unless permitted under Section 2 of this policy.
- 1.8. **City Staff** may not canvass, or work in support of, a **Candidate** or political party while wearing a **City** uniform, badge, crest, or other item identifying them as **City Staff**, or while using a **City**-owned/leased vehicle.
- 1.9. **Candidates** are prohibited from including the **City** logo, coat of arms, slogan, or corporate program identifiers on any **Election-Related** materials, or related websites, except in the case of a link to the **City's** website to obtain information about the municipal election.
- 1.10. **Councillors** and **City Staff** may not use any **City** printers and/or photocopiers or paper to produce **Election-Related** material. Once a **Candidate** has filed their nomination paper their printing and/or photocopying levels shall not exceed the monthly average from the previous year as determined by the **City Clerk**.
- 1.11. **Candidates** are prohibited from using any photographs produced for and owned by the **City** for any **Election-Related** purposes, unless prior permission is granted by the **City Clerk**.
- 1.12. **Councillors** are responsible for ensuring that any communication material, including printed materials such as **Newsletters**, advertising etc. funded by the **City**, do not contain any **Election-Related** content.
- 1.13. Links to any personal or **Election** websites, or social media sites will be removed from the **City** owned website after a **Candidate** has filed his or her nomination papers, except where deemed appropriate by the **City Clerk** for the purpose of promoting awareness of the **Election** to voters.

2. Campaign Activities at City-Owned and/or City-Operated Facilities

- 2.1. **Candidates** and **Registered Third Parties** may not display any **Election-Related** material or undertake any **Campaigning** at **City** facilities, except under the following circumstances:
 - 2.1.1. The facility is a **City**-owned long-term care facility, in accordance with the *Long Term Care Act, 2007*.
 - 2.1.2. **Candidates** may use any **City** owned facility that provides for public rentals, with the exception of the Civic Centre, provided the application process for use of the facility is followed, and that all applicable fees for use of the facility are paid.
 - 2.1.3. **Candidates** and **Registered Third Parties** will set up and remove all **Election-Related** material, including but not limited to, signs, posters, and other campaign material within the allotted rental period; and,
 - 2.1.4. **Election-Related** material can only be displayed within the rented area designated within the rental agreement.
- 2.2. **Candidates** and **Registered Third Parties** are not permitted to use the Civic Centre to undertake any **Election Related** activities or **Campaigning**.
- 2.3. **Candidates** and **Registered Third Parties** are not permitted to rent **City** facilities for **Election-Related** activities or **Campaigning** while there is a Voter Assistance Centre or voting Location operating out of the facility.

3. Procedures for Mayor & Members of Council during an Election Period

- 3.1. Constituent information (including email and mailing addresses) collected by **Councillors** as part of their constituent communications shall not be used for **Election** purposes.
- 3.2. The budgets for **Councillors** in a municipal election year will be restricted to 11/12ths of the approved annual discretionary budget amount with the provision that:
 - 3.2.1. Councillors are restricted to 6/11ths of their discretionary budget from January 1 until May 1.
 - 3.2.2. Newly elected **Councillors** are allocated a budget equal to 1/12th of the approved discretionary budget amount for the month of December.
 - 3.2.3. Re-elected **Councillors** will have access to the remainder of the year's approved discretionary budget the day after Voting Day.
- 3.3. The budgets for the Mayor and **Councillors** seeking provincial or federal **Election** will be prorated based on the month the **Election** occurs.
- 3.4. **Councillors** will be limited to one **Newsletter** in a municipal election year and Regional Councillors will receive half of their allotted annual budget for **newsletters** in a municipal election year. Councillor **Newsletters** must be produced and distributed to Canada Post before May 1. Regional Councillor **Newsletters** must appear in the publication before May 1 in a municipal election.
- 3.5. The following will be discontinued on May 1 for **Councillors** who intend to be **Candidates** in a municipal election year until the day after Voting Day (if a Councillor is not registered for re-election by **Nomination Day** these provisions do not apply):
 - 3.5.1. **Newsletters** or other ward-wide communication, unless specifically authorized by **Council**;
 - 3.5.2. All forms of advertising, including municipal publications;
 - 3.5.3. All printing or high speed photocopying and distribution of such materials;
 - 3.5.4. The ordering of stationery; and,
 - 3.5.5. The ordering or moving of office furniture and furnishings, except those of an emergency nature.
- 3.6. **Councillors** and **Candidates** may not:
 - 3.6.1. Print or distribute any material paid for with **City** funds (or produced with the use of City owned equipment, resources or facilities) that makes reference to any other **Councillor** or individual who is a **Candidate** in an **Election**;
 - 3.6.2. Print or distribute any material paid for with **City** funds (or produced with the use of City owned equipment, resources or facilities) that identifies that a **Councillor** or any other individual will be running in an **Election**;
 - 3.6.3. Use the **City's** voice mail system to record **Election-Related** messages;

- 3.6.4. Include any **Election-Related** material on websites or domain names that are paid for by the **City**;
- 3.6.5. Use mobile communication devices, including but not limited to smartphones, cell phones (including Bring Your Own Device and tablets), that are paid for by the **City** for any **Election-Related** purpose or **Campaigning**, unless the **City** is reimbursed;
- 3.6.6. Use the services of any **City Staff** to assist in any communication activity related to the preparation or distribution of campaign materials or events or enable a **City Staff** to undertake any **Election-Related** activities that is prohibited in this policy on behalf of the **Councillor** or **Candidate**; and,
- 3.6.7. Hold a Ward or community meeting between May 1 and Voting Day, in a municipal election year, unless authorized by **Council**.

6. Roles and Responsibilities

The Legislative Services and Corporate Communications Department is responsible for reviewing this Policy as appropriate. It is the responsibility of all **Candidates, Councillors, City Staff, and City Volunteers** to adhere to this Policy.

Should a complaint arise regarding the alleged use of corporate resources in contravention of this Policy, the **City Clerk** or their designate shall have the authority to investigate and resolve the complaint. If a breach of this Policy is confirmed, the applicable **Candidate, Councillor, City Staff** person or **City Volunteer** will be required to personally repay any of the costs associated with the breach. In addition to repayment resulting from a breach of this Policy, **Candidates, Councillors** and/or **City staff** could be subject to an investigation under the applicable *Council Code of Conduct* or *Staff Code of Ethics and Conduct*.