



The Corporation of the Town of Essex

Section:	Legal and Legislative Services
Subject:	Prohibition on the Use of Corporate Resources during Elections
Policy Number:	041
Approval Date:	April 6, 2021
Approved By:	R21-04-119
Prepared By:	Town Solicitor, Legal and Legislative Services/Clerk

Objective/Policy Statement

The Corporation of the Town of Essex and its local boards and committees are committed to ensuring accountable and transparent election practices, relating to the use of the corporate resources of the Town of Essex.

Purpose

The purpose of this policy is to provide clear and consistent direction to all Candidates, Third party advertisers, Members of Council and Town Staff to ensure a fair and transparent electoral process while also promoting compliance with all applicable legislation including the *Municipal Elections Act*, 1966 as amended (the "Act").

In particular the Act establishes regulations governing campaign finances for candidates and third-party advertisers in a municipal election.

Section 88.8 (4) prohibits a Town from making contributions in any form (which includes its assets, resources, services and employees) to a candidate and Section 88. 12 (4) likewise prohibits a Town from contributing to a third party advertiser's campaign.

As campaign contributions may take the form of money, goods and services, then *any use of a corporate resource for an election related purpose by a member of council, a candidate, a third party advertiser or Town staff is prohibited.*

The Town recognizes that Elected Officials who are candidates are still responsible to serve their constituents and fulfill their responsibilities until the end of their term but clear separation must exist between Elected Official's role as a Candidate and their role as a Member of Council.

Scope

This policy applies during an Election Period to Candidates, Third Party Advertisers, Members of Council, Town Staff and any other person acting on behalf of a Candidate, Third Party Advertiser or a Member of Council.

Definitions

The **Act** means the *Municipal Elections Act, 1996*, as amended from time to time, and includes any regulations made thereunder.

Acclaimed means a Candidate elected by acclamation pursuant to section 37 of the Act.

Campaign or Campaign Activity means any work, effort, activity or thing intending to influence persons to vote for or against any Candidate or any question or by-law submitted to the electors in an election.

Campaign Materials means any materials of any kind used to solicit votes for a candidate(s) or question in an election including but not limited to literature, banners, posters, pictures, buttons, clothing, or other paraphernalia. Campaign materials include, but are not limited to, materials in all media, for example, print, displays, electronic radio or television, online including websites or social media.

Candidate(s) means a person who has filed a nomination to run in a municipal, provincial or federal election, and shall be deemed to include third party advertisers and any other person seeking to influence other persons to vote for or against any Candidate or any question or by-law submitted to the electors under section 8 of the Act.

Corporate Resources shall include any and all facilities, infrastructure, assets, equipment, supplies, services, staff or any other resource of any other kind whatsoever that belongs to, is used by or is funded or otherwise associated with the Corporation of the Town of Essex.

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

Election Period means that period of time in which an individual can be nominated as a candidate in an Election through to and including the Election voting day.

Election Related means anything that relates directly or indirectly to an Election.

Election Sign shall mean any and all types of signs, surfaces or structures that are used or capable of being used as a visual medium to attract attention or convey a message in relation to an Election and includes without limiting a banner, awning, canopy, marquee, menu board, poster, billboards and vehicle magnets or decals used to advertise or promote a candidate in a federal, provincial or municipal election or by-election or to advertise or promote any question or by-law submitted to electors in a federal, provincial or municipal election or by-election .

Town Facilities means any real or intangible property owned, operated or otherwise under the control of the Town of Essex including its buildings and infrastructure and shall be deemed for the purposes of this policy to include any town hosted or sponsored events regardless if such event(s) are being hosted or held on Town property or not.

Nomination Day is the date designated under the Act or such other dates designated by Provincial or federal legislation as applicable.

Policy means this "Use of Corporate Resources during Elections" Policy.

Third Party Advertiser means in relation to an Election in a Town, an individual, corporation or trade union that is registered under section 88.6 of the *Municipal Elections Act, 1996* as amended.

Staff means all full-time, part-time, contract and temporary employees hired by the Town and including but not limited to the Chief Administrative Officer, Deputy Chief Administrative Officer, Directors, Clerk, Deputy Clerk, Managers, Supervisors, Coordinators, salaried employees, union employees, administrative staff, contract and temporary students and co-operative placement staff.

Third Party Advertising shall mean an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing a candidate or a "yes" or "no" answer to a question referred to in subsection 8 (1), (2), or (3) of the *Municipal Elections Act, 1996* and has been erected or displayed without the authorization, direction or involvement of a Candidate.

Voting Place shall mean a place where electors cast their ballots as approved by the Federal, Provincial, or Municipal Election Official(s) and shall include the real property on which the voting place is located and adjacent road allowances.

Policy

This policy shall apply throughout the Election Period and in accordance with the provisions of the Act and other applicable legislation.

Town Property and Facilities During The Election Period:

- a. Campaign related signs or any other campaign related material, including vehicles which may identify a Candidate, shall not be displayed in or located on any Town Facilities during the Election Period.
- b. During the Election period Town Facilities which includes town buildings, structures (for e.g. gateway signs), or any real or intangible property of any kind whatsoever may not be used for Campaign related activities or used to display any campaign related material on or in any campaign related material. For greater certainty Town Facilities that may not be used in relation to campaign activities or campaign related materials are deemed to be inclusive of any campaign activities or materials that feature the Essex Municipal Building or any location(s) at which Essex Town Council hosts or has hosted its Meetings and would further include the use of any recordings or broadcasts in whole or in part of any meetings of Council including electronic meetings of Council that have been posted to the public.
- c. Candidates and registered third parties may not hold/host campaign activities at any Town facilities.
- d. Notwithstanding 1 a. and 1 b. above and subject to availability all-candidate meetings may be held at Town facilities for a nominal fee provided that all candidates for office are invited to attend such meetings and provided that there is no use or distribution of campaign materials at such meeting.
- e. Candidates shall not campaign and/or distribute campaign literature on any Town facilities, including during any function being hosted by the Town whether the function is being undertaken on or in Town Facilities/property or not;

Access to and Use of Town Information and Resources during an Election Period:

No person with access to or control of Corporate Resources shall use Corporate Resources for the purposes of an election, or contribute or allow the contribution of Corporate Resources for campaign activities or campaign related purposes. For greater certainty the following applies during an Election Period:

- f. No Photographic, video, print or digital material created or used by the Town may be used in any campaign activities or campaign related materials.
- g. No printing or distribution of any materials using municipal funds that make reference to, contain the names or photographs of, or identify registered Candidates; with exception that the use of adopted Minutes of Municipal Council and Committee meetings is exempt from this policy.
- h. Any materials from websites, domain names and social media accounts that are funded by the Town may not include any campaign related material nor be used for campaign purposes and for further certainty:

Candidates are:

- i) Not permitted to link any Town document made available to the public, or on a public Town webpage, from their campaign website;
 - ii) Not permitted to use or link, Town photographic and video materials used by the Town or which identifies the Town or which the public reasonably identifies with the Town, onto their own web page or otherwise in any campaign materials;
 - iii) Not permitted to use social media handles such as @EssexOntario, @TownofEssex, @EssexOn, @Essex, @EssexON or “tag” the Town of Essex in campaign related social media posts.
- i. Sitting members of Council and/or Town Staff shall not use any Town’s IT resources, including individual websites linked through the Town’s website and social media accounts used for communication, for any election campaign and/or campaign related activities;
- j. If a sitting Member of Council and/or Town staff uses any social media account for campaigning, such accounts must not be created or supported by Corporate Resources. Social media accounts used for campaign purposes must utilize personal cell phones, personal tablets and/or personal computers. In particular Town issued cell phones/tablets and computers etc. cannot be used to create any campaign related materials nor post any such materials to social media accounts and/or websites and this policy reserves the right of the Town to audit compliance with this provision in that regard.
- k. Sitting members of Council who choose to create or use social media accounts for campaigning must include, for the duration of the Election Period, a clear statement on each campaign website or social media account’s home page indicating that the account is being used for Election Campaign purposes and is not related to their duties as a Member of Council.
- l. Candidates must not, under any circumstances, use a Town logo, crest, slogans or any other items or variation thereof which identifies with or which the public reasonably

identifies with the Corporation of the Town of Essex on any campaign material, election signs, social media or campaign website.

- m. During the Election period any Staff engaged in political activities must take care to separate those personal activities from their official positions. Staff may participate in political activity at the federal, provincial and municipal levels provided that such activity does not take place during their work hours or during the time they are otherwise acting in the capacity of Town Staff. Staff further shall not use Town assets, resources or property for any campaign related purposes and in particular :
 - n. Staff shall not produce, display or distribute notices, posters or similar material in support of a Candidate at any Town Facilities or using any Corporate Resources;
 - ii. Staff shall not canvass or actively work in support of a municipal, provincial or federal Candidate or party during normal working hours unless they are on a leave of absence without pay, lieu time, float day, or vacation leave;
 - iii. Staff shall not canvass or actively work in support of a municipal Candidate or political party while wearing a uniform, badge, logo or any other item identifying them as an employee of the Town of Essex, or using a vehicle owned or leased by the Town.
- i. Corporate Resources may not be used for any campaign related purposes including, but not limited to any use of the Town's logo, crest, slogans etc. either in print or digital format;
- j. Candidates and registered third parties may attend Town organized events during the election period, but may not display or distribute campaign materials or undertake any campaign activities for themselves, a political party, registered third party, or in support of or opposition of a question on a ballot.
- k. During the election period Candidates must make any information requests and/or other miscellaneous requests of Town Staff directly to the Chief Administrative Officer and/or the Town Clerk in order to determine if such requests can be accommodated in accordance with this policy.
- l. Any Staff receiving requests for information from a Candidate during the Election period shall consult with the Chief Administrative Officer and/or the Town Clerk in order to determine if such requests can be accommodated in accordance with this Policy. Any Information provided to one Candidate that is of a general nature and which may provide valuable guidance to all others will be provided to all candidates in a manner deemed appropriate by the Clerk.
- m. Any requests by a Candidate to attend at Town Hall or for any meetings with any Town Staff as well as any requests for tours of town facilities must be made to and pre-

approved by the Chief Administrative Officer and/or the Town Clerk in order to determine if such requests can be accommodated in accordance with this Policy.

- n. Town databases (with the exception of those specifically made for the use of candidates) may not be used by any Candidates unless the database has already been released for public use.

Attending Town Events during an Election Period

- a. Candidates, registered third party advertisers or political parties are permitted to attend Town events, or events held at Town facilities, in either their capacity as elected representatives or as private citizens, but may not campaign while in attendance. No election signs may be posted and no campaign materials may be disseminated at such Town events.
- b. Elected officials are permitted to attend Town-organized events or events held on Town facilities and act as ceremonial participants in their capacity as elected officials, including speaking at the event and partaking in ceremonial activities. In provincial or federal elections, once the writ is issued, MPPs and MPs, with the exception of the Ministers of the Crown, are no longer elected officials and therefore should not be invited to attend Town events.

Restrictions to Services provided to Members of Council (the "Members") during a Municipal Election Period

In accordance with the Council Discretionary Fund Policy, Members of Council access to the Council Discretionary Fund shall be suspended during the year of a municipal election and in the event of a by-election, the Fund shall be suspended from Nomination Day, as established in accordance with the *Municipal Elections Act, 1996, S.O. 1996, c. 32*, until the completion of the election and/or by-election.

Upon Nomination Day in a Municipal Election year, the Town will discontinue the following services or activities for sitting Members of Council, regardless of whether they are seeking election in the new term of council or not:

- a. All forms of advertising and communication, including in municipal publications social media accounts and the Town website, that are paid for by Town funds or operated and distributed by the Town will not reference the specific name or image of a Member of Council.
- b. Signage for Town events, including banners and posters, will not reference the name of a Member of Council.

- c. The Town's media releases and materials etc. will not reference the name of a Member of Council. Where the Town would typically name a specific Member of Council or the Mayor in its communications or media materials during an election period, it will make reference to the generic term "Ward 1 Councillor" or "Mayor of Essex" without naming the specific Member of Council. If applicable any biographical and identifying information of the members of Council will also be removed from the Town's website leaving only the name and contact information of the current elected representatives. This practice will be used for all Town programs, events, announcements and to ensure effective communications with residents and businesses with respect to operational requirements, impacts or emergency situations
- d. Ceremonial documents such as retirement scrolls for employees, scrolls in celebration of anniversaries, Letters of Greeting and other celebratory documents normally signed and distributed by Members of Council will be signed by the Mayor as the Chief Executive Officer of the Town.
- e. Members of Council are responsible for ensuring that the content of any communication material, including printed materials such as newsletters, advertising, etc., that the Town funds for the operation of each Member's Office is not directly election-related.
- f. Upon Nomination Day in a municipal election year, the Mayor will be subject to the same restrictions as Members of Council, but will continue to be named in media releases and Town materials related to inter-governmental activities only in his or her capacity as Chief Executive Officer of the Town.
- g. During the Election Period, no Member of Council, including the Mayor shall:
 - i) Advertise in their capacity as a Member of council, including in municipally funded publications;
 - ii) Print, photocopy or distribute any materials in their capacity as a member of council; and
 - iii) Order any stationery or business cards, except within reason and as needed to carry out their current duties.
- h. During the Election Period, no Member of Council, including the Mayor shall use the services of the Town's Integrity Commissioner during the Election Period for the purposes of seeking advice related to their Campaign

Application/Limitations

The Town Clerk is authorized and directed to take the necessary action to give effect to this Policy.

This policy does not restrict the Town Clerk or designates from utilizing municipal resources to perform the statutory duties related to conducting a municipal election in accordance with the requirements of the Act.

This policy does not preclude a member of Municipal Council from performing their duties as a Member of Council.

Review Period

This Policy shall be reviewed during each term of Council and will be revised in light of any changes to legislation.

Enforcement and Complaints

Any complaints regarding alleged violations of this policy shall be filed pursuant to the *Town of Essex Election Complaints Policy* (as approved by Council September 8 2020).

Should any written complaint be filed regarding the alleged use of corporate resources in contravention of this policy, the Clerk or designates, shall have the delegated authority to review and resolve any issues.

Notwithstanding this it is acknowledged and agreed that the Clerk or designates do not have the investigative authority to review/determine if there have been any violations of the *Municipal Elections Act*, 1996 or such other provincial or federal legislation as may be applicable to the circumstances. Any such complaints or alleged violations will be referred to other relevant authorities as may be applicable to the circumstances.

If a breach of this Policy is confirmed the candidate may be required to personally reimburse the Town for any of the costs associated with the breach.

Acknowledgement

I, _____, acknowledge that I have read and understand the "Prohibition on the Use of Corporate Resources during an Election Policy"

I further acknowledge, understand and agree that by signing below I agree to abide by the terms and conditions of this Policy and further agree to indemnify and hold harmless the Corporation of the Town of Essex for any costs suffered by the Town that are associated with any breaches of this Policy so caused.

Name: _____

Signature: _____

Date: _____