



## Staff Report

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<b>Report To:</b>	<b>Joint Committees</b>		
<b>Date of Meeting:</b>	October 25, 2021	<b>Report Number:</b>	LGS-027-21
<b>Submitted By:</b>	Rob Maciver, Director of Legislative Services		
<b>Reviewed By:</b>	Andrew C. Allison, CAO	<b>Resolution#:</b>	JC-069-21, JC-071-21, C-365-21, GG-503-21, C-382-21
<b>File Number:</b>		<b>By-law Number:</b>	2021-091
<b>Report Subject:</b>	2022 Municipal Elections – Use of Corporate Resources for Election Purposes – Policy F110		

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### Recommendations:

1. That Report LGS-027-21, and any related communication items, be received;
2. That the draft By-law containing an updated Policy F110, Use of Corporate Services for Election Purposes, Attachments 1 & 2 to Report LGS-027-21, be approved; and
3. That all interested parties listed in Report LGS-027-21 and any delegations be advised of Council's decision.

## Report Overview

As part of the 2022 Municipal Elections planning, Staff have reviewed the Council approved policy, F110, the Use of Corporate Resources for Election Purposes, and are suggesting several minor changes.

### 1. Background

1.1 Section 88.18 of the *Municipal Elections Act, 1996* stipulates that:

“Before May 1 in the year of a regular election, municipalities and local boards shall establish rules and procedures with respect to the use of municipal or board resources, as the case may be, during the election campaign period.”

1.2 After this change was introduced in 2018, Council passed [By-law 2018-028](#) on April 9, 2018, containing Policy F110, the Use of Corporate Resources for Election Purposes Policy, arising out of [Report CLD-008-18](#) and [Report CLD-008-18 Addendum](#).

1.3 Although the policy has been established, it is best practice to review the policy prior to each regular municipal election.

### 2. Proposal

2.1 Staff have reviewed the current policy and are recommending some slight changes, mostly to clarify definitions and ensure that it is clear that the Policy applies to Registered Third Party Advertisers. Other changes include some definition changes, and clarity on information included on municipal webpages. Attachment 1 shows a redlined version with the proposed changes.

### 3. Concurrence

Not Applicable, but all Department Heads have reviewed the policy.

## **4. Conclusion**

It is respectfully recommended that the Committee recommend to Council that the attached (Attachments 1 & 2) draft by-law be approved, updating Policy F110, the Use of Corporate Resources for Municipal Elections policy.

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Staff Contact: June Gallagher, Municipal Clerk, 905-623-3379 ext. 2102 or [jgallagher@clarington.net](mailto:jgallagher@clarington.net).

Attachments:

Attachment 1 – Proposed updated “Use of Corporate Resources for Election Purposes Policy”  
Attachment 2 – Draft By-law repealing By-law 2018-028, adopting new Policy F110

Interested Parties:

There are no interested parties to be notified of Council's decision.

# Corporate Policy



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<b>POLICY TYPE:</b>	<b>Operational</b>
<b>SUBSECTION:</b>	
<b>POLICY TITLE:</b>	<b>Use of Corporate Resources for Election Purposes</b>
<b>POLICY #:</b>	<b>F110</b>
<b>POLICY APPROVED BY:</b>	<b>Council</b>
<b>EFFECTIVE DATE:</b>	<b>April 9, 2018</b>
<b>REVISED:</b>	<b><u>???</u> 2021</b>
<b>APPLICABLE TO:</b>	<b>All Employees, Candidates, Registered Third Parties, Council, Clarington Local Boards</b>

## Policy Statement

The *Municipal Elections Act* (MEA), the *Election Finances Act* (Ontario), and the *Canada Elections Act* prohibit the Municipality from making contributions in any form to a Candidate or Registered Third Party.

All provisions contained within this policy shall serve to ensure the protection of freedom of expression while maintaining that:

- Corporate Resources shall not be used during an Election Period 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, nor inhibited ~~ed them~~ from representing the interests of their constituents; and,
- Information and communication related to an election shall continue to be open and accessible to the public with content to will be produced, and approved, by Clarington's Corporate Communications Division, in conjunction with the Clerk's Division.

## Purpose

The purpose of this policy is to create guidelines in the Municipality of Clarington for all Candidates running for an elected office and Registered Third Parties during the Election Period and to establish parameters on the use of Corporate Resources for election related purposes.

## Scope

This policy applies to all employees of the Municipality, Candidates, political parties, constituency associations, Registered Third Parties, and persons or groups supporting or opposing a question on a ballot, as well as anyone acting on their behalf.

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## 1 Definitions

- 1.1 Campaign(ing)** means any activity by, or on behalf of a Candidate, political party, constituency association, Registered Third Party, or question on a ballot meant to elicit support during the Election Period. This does not include the appearance of elected officials, other candidates or their supporters, or registrants at an event in their personal capacity without the display of any signage or graphics which identifies the individual as a candidate or registrant ~~and~~ without the solicitation of votes.
- 1.2 Campaign Materials** means any materials used to solicit votes for a Candidate(s) or question during the Election Period including, but not limited to, literature, banners, posters, pictures, buttons, clothing, or other paraphernalia. Campaign Materials include materials in all media, for example, print, displays, electronic radio or television, online including websites or social media.
- 1.3 Candidate** means any person who has filed, and not withdrawn a nomination, in a municipal, school board, provincial or federal election or by-election, or a candidate seeking nomination for a political party. Where referred to in this Policy, the term Candidate can also be substituted to read political party, constituency association, Registered Third Party, or a person or group supporting or opposing a question on a ballot.
- 1.4 Corporate Resource** means items, staff, services, or resources which are the property of the Municipality of Clarington including, but not limited to: materials, equipment, vehicles, facilities, land, technology (computers, smartphones, tablets, etc.), intellectual property, images, logos, and supplies. Working hours, the time where the Municipality pays its employees to complete certain duties or tasks, is also considered to be a Corporate Resource.

**1.5 Election Period** means the official Campaign period of an election for:

- A municipal or school board election; the Election Period commences on the first day prescribed for the filing of nominations in accordance with the MEA and ends on voting day.
- A provincial or federal election; the Election Period commences the day the writ for the election is issued and ends on voting day.
- A nomination for a political party, the Election Period is the nomination contesting period as determined by the Party.
- A question on the ballot; the period commences the day Council passes a by-law to put a question to the electorate and ends on voting day.
- A municipal or school board by-election; the period commences ~~when the by-election is called~~ on the first day nominations may be filed and ends on voting day.

**1.6 Local Board** ~~means a body, municipal service board, or local authority established by the Municipality of Clarington~~ has the same meaning as found in Section 1 of the Municipal Act, 2001.

**1.7 MEA** means the Municipal Elections Act, 1996, as amended, S.O. 1996, c. 32, Sched.

**1.8 Municipal Facility/Building** means any building or facility owned or operated by the Municipality of Clarington or Clarington local board.

**1.9 Registered Third Party** shall have the same meaning as “Registered Third Party” ~~under the MEAs found in section of the Municipal Elections Act, 1996 or the term “Third Party” under theas defined in section 1 of the Election Finances Act (Ontario) and Canada Elections Act,~~ as the context requires.

## **2 Responsibilities**

**2.1** Candidates and Registered Third Parties to:

- Adhere to the guidelines and parameters established by this policy.

**2.2** Municipal Clerk to:

- Administer this policy and provide any related procedures as deemed necessary or desirable for conducting an election.

**2.3** Municipal Staff to:

- Ensure that Corporate Resources, as identified by this Policy, are not used for campaigning.

### 3 General Provisions

In Accordance with the spirit and intent of the election related legislation,

- 3.1 Corporate Resources and funding shall not be used by a Candidate or Registered Third Party for Campaigning or election-related purpose ~~during the Election Period.~~
- 3.2 The tenets of this Policy also apply to an acclaimed Member or a Member not seeking re-election.
- 3.3 The Municipal Clerk be authorized, and directed to take the necessary action, to give effect to this Policy.
- 3.4 This Policy does not preclude a Member of Council from performing their duties as a Councillor, nor inhibit them from representing the interests of their constituents.
- 3.5 Individuals who have questions about this Policy are encouraged to contact the Municipal Clerk to obtain further clarification.

### 4 Corporate Resources – Technology

Further to Section 3.1 above, the following is provided for greater clarity when considering the use of corporate technology resources:

- 4.1 Members of Council are provided access to corporate information technology (I.T.) assets to fulfill their duties and responsibilities as an elected official but may not use those assets for Campaigning or the development of Campaign Materials. This includes, but is not limited to, functionality through municipally issued smartphones such as calendar, email, texts, etc.
- 4.2 Websites or domain names that are funded by the Municipality of Clarington may not be used for campaigning. The Municipality's official election website or webpages will provide Candidate contact information, including a link to a Candidate's website, but shall in no way endorse any Candidate.

**Notwithstanding, a ~~Member of Council~~ Candidate or Third Party Advertiser may:**

- ~~Candidates may~~ provide a link to the Municipality's official election website or webpages in their campaign materials ~~in order~~ for electors to access additional information about the election and voting process.

Once a Member of Council registers to be a Candidate, any links from a Municipal website or social media account to his or her website or social media pages will be removed from the Municipality's webpages if the Member's website or social media page contains or will contain Campaign Material.

**Notwithstanding**, information contained on the "Personal Information Release Form - Candidate Consent", as part of the nomination process, may be included on the Clarington Elections webpage(s).

**4.3** ~~In an election year~~During the election period, Mayor and Council biographies on the Municipal website shall ~~remain static and no changes to these pages will be permitted~~be reduced to council-related contact information only.

**4.34.4** The Municipality's voicemail system shall not be used by Candidates to record campaign-related messages nor shall the computer network, including the email system, be used to distribute campaign-related correspondence.

## 5 Corporate Resources - Communications

Further to Section 3.1 above, the following is provided for greater clarity when considering the use of corporate communication resources:

- 5.1** Members of Council may not use Council portraits funded by the Municipality, either as a corporate or Member expense, in Campaign Materials.
- 5.2** Photographs produced for, and owned by, the Municipality may not be used for any election purposes.
- 5.3** Candidates or Registered Third Parties may not print, distribute, or make reference to any of the Municipality's email addresses, telephone numbers, or facility addresses on any Campaign Materials.

**Notwithstanding, Candidates or Registered Third Parties may:**

- provide the election telephone number, election email address, or a link to the Municipality's official election website, ~~or~~ webpages, in Campaign Materials for electors to access additional information about the election and voting process (see also Section 4.2); and
- 5.4** The Clerk may develop and distribute information through various means for the purpose of advising and educating electors. Candidates or Registered Third Parties are permitted to promote and distribute election information provided by the Clerk, provided that such information is not modified in any way.



**5.5** The Municipality's logo, crest, coat of arms, and slogans, or any other images or illustrations or videos owned or under the jurisdiction of the Municipality, may not be used in any campaign materials. As per the Use of Corporate Logo by Members of Council Policy (see Report COD-030-11), the logo or any related material shall not be available for use as of January 1<sup>st</sup> in an election year.

**Notwithstanding, Candidates or Registered Third Parties may:**

- Capture their own photos of Municipal property for use in campaign material, provided the photo is taken from a publicly accessible area, and does not contain a Municipal sign, logo, crest, coat of arms or slogan in the background.
- 5.6** Distribution lists or contact lists developed utilizing Corporate Resources and in the custody and control of the Municipality shall not be utilized for election purposes.
- 5.7** The following shall be discontinued for Members of Council from the day prior to Nomination Day in a municipal election year to Voting Day,
- All printing, high speed photocopying and distribution, including printing and general distribution of newsletters unless so directed and approved by Council, and
  - The ordering of business cards and stationery.
- 5.8** Members of Council may not,
- Print, post or distribute any material paid by municipal 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,
  - Profile (name or photograph), or make reference to, in any material paid by municipal funds, any individual who is registered as a candidate in any election,
  - Print or distribute any material using municipal funds that makes reference to, or contains the names or photographs, or identifies registered candidates for municipal elections (minutes of Municipal Council and Committee meetings are exempt from this policy).
- 5.9** Municipal resources that have been published to the Municipal website (e.g., strategic plans, staff reports, minutes, agendas, press releases) may be linked to from on Candidate and Registered Third Parties' websites, but may not be housed on the candidate website, and may not be taken out of context/modified/reproduced for use in any campaign related material.

- 5.10 Messages posted to the Municipal social media accounts (including Facebook and Twitter) may be shared in the case of Facebook or re-tweeted on Twitter by a candidate to their personal or campaign social media accounts using social media official channels and not partially reproduced.

## 6 Corporate Resources - Municipality Facilities/Buildings

Further to Section 3.1 above, the following is provided for greater clarity when considering the use of Municipal Facilities/Buildings, including Municipality owned or leased lands, as corporate resources:

- 6.1 Any Candidate may attend any public Standing Committee, Advisory Committee or Council meeting; however, they shall not use this forum to speak on, or address, any matter relating to their Campaign.
- 6.2 Candidates or Registered Third Parties are prohibited from renting space (e.g., a booth) as part of a Municipally organized event.
- 6.3 All Candidates and Registered Third Parties must adhere to the provisions set out in any other Municipal Policies pertaining to Municipal Facilities/Buildings.
- 6.4 Members of Council, Registered Third Parties, and Candidates may not use their constituency office, municipal or any municipally provided facilities for any election-related purpose, which includes the display of any campaign-related signs in the window or on the premises, as well as the display of election-related material in the office.
- 6.5 Campaigning and the distribution or display of campaign material is not permitted in any municipal or local board facility, on municipal land, or at municipal or local board event including any municipal or board meeting.
- 6.6 Candidates or Registered Third Parties are prohibited from using a Municipal Facility/Building as a campaign office.
- 6.7 The rental, to candidates or Registered Third Parties of advertising space on arena boards and lobby monitors, or any other municipal social media site, is prohibited.

### Notwithstanding,

- Section 6.5 does not prohibit the erection of a temporary election or campaign signs on municipal land in accordance with the Municipality's Election Sign By-law.
- Campaigning on public sidewalks and highways is permitted, provided that such campaigning is in compliance with prevailing legislation and Municipal by-laws.
- Sections 6.4 and 6.5 do not prohibit a candidate or external organization or Registered Third Party from renting space within a municipal facility/building (other than the Municipal Administrative Centre, Clarington

Library facilities and the Museum Buildings) for election related purposes, ~~and if a municipal facility / building is rented, campaigning and the distribution or display of campaign materials is only permitted, only~~ during the rental period and only within the rented area, ~~campaigning, the distribution or display of campaign materials~~. This exception does not apply to Section 6.6.

- Vehicle and/or mobile signs may be displayed as per the Municipality's Election Sign By-law.

## **7 Municipality Staff**

- 7.1** In accordance with the Policy E1 - Employee Code of Ethics, Municipal Staff are prohibited from using corporate resources for the benefit of a Candidate or Campaign. Policy E1 also sets out the rules for participation in political activities by staff.

## **8 Integrity Commissioner**

- 8.1** The Municipality's appointed Integrity Commissioner is considered to be a Corporate Resource, under contract with the Municipality and may receive, from time to time, compensation from the Municipality in accordance with services provided.
- 8.2** Members of Council shall not use the services of the Municipality's Integrity Commissioner during the Election Period for the purposes of seeking advice related to their Campaign.

## **9 Limitation**

- 9.1** Nothing in this Policy shall prohibit a Member of Council from performing their job as a Councillor, nor inhibit them from representing the interests of the constituents who elected them. All tenets of this policy are subject to the exception of Members' actions associated with fulfilling their normal and ongoing representative roles as Members of Council (such as attending annual or regular scheduled events, up until the official end of the term they are serving).

The Corporation of the Municipality of Clarington

By-Law No. 2021-xxx

Being a By-law to adopt the Use of Corporate Resources for Election Purposes Policy, and Repeal By-law 2018-028.

Whereas Sub-section 88.18 of the *Municipal Elections Act, 1996*, as amended, (the Act) states that, before May 1 in the year of a regular election, municipalities and local boards shall establish rules and procedures with respect to the use of municipal or board resources, as the case may be, during the election campaign period;

Whereas Sub-section 88.15 (1) of the Act states that money, goods and services given to and accepted by a person for his or her election campaign, or given to and accepted by another person who is acting under the person's direction, are contributions;

Whereas Section 88.8 (4) 5 of the Act states that a municipality or local board states that a municipality or local board shall not make a contribution to the election campaign of a candidate;

Whereas Council had previously passed By-law 2018-028 adopting the “Use of Corporate Resources for Election Purposes Policy”; and

Whereas the Council of the Municipality of Clarington deems it necessary to update the “Use of Corporate Resources for Election Purposes Policy”.

Now Therefore the Council of the Municipality of Clarington enacts as follows:

1. That the attached Policy Statement in respect to Use of Corporate Resources for Election Purposes be adopted to replace the Policy Statement forming part of By-law 2018-028.
2. That Attachment 1, Policy F110, forms part of this By-law.
3. That By-law 2018-028 be repealed.
4. This by-law shall come into force and effect on the date of passing.

Passed in Open Council this 9th day of April, 2018.

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Adrian Foster, Mayor

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C. Anne Greentree, Municipal Clerk