



<b>Policy Title:</b>	<b>Prohibition on the Use of Corporate Resources during Elections</b>
<b>Policy Number:</b>	<b>98</b>
<b>Department:</b>	Office of the Chief Administrative Officer
<b>Division:</b>	Legal and Legislative Services
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## 1. Policy Statement

The Corporation of the Town of Essex (the “**Town**”) 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.

## 2. Purpose

- 2.1. This policy provides a 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, 1996*, as amended (the “**Act**”).
- 2.2. In particular, the Act establishes regulations governing campaign finances for candidates and third-party advertisers in a municipal election.
- 2.3. Section 88.8 (3) prohibits a Town from making contributions in any form (which includes its assets, resources, services and employees) to a candidate and Section 88.8 (4) to any Third Party Advertisers.
- 2.4. As campaign contributions may take the form of money, goods and services, therefore *any use of a Corporate Resource, as defined below, for an Election related purpose by a member of Council, a Candidate, a Third Party Advertiser or Town Staff is prohibited.*
- 2.5. 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 an elected official’s role as a Candidate and such elected official’s role as a member of Council.

### 3. Scope

- 3.1. This policy applies during an Election Period to Candidates, Third Party Advertisers, and members of Council.
- 3.2. This policy shall be reviewed during each term of Council and will be revised in light of any changes to legislation or at the discretion of the Clerk or designate.

### 4. Definitions

- 4.1. **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.
- 4.2. **Campaign Materials** means any materials of any kind used to solicit votes for a Candidate 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.
- 4.3. **Candidate** 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 a Candidate or any question or By-Law submitted to the electors under Section 8 of the Act.
- 4.4. **Candidates Meeting** means any event, gathering or information session held by the Town for the purposes of providing Campaign related information directly to Candidates and Third Party Advertisers.
- 4.5. **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.
- 4.6. **Election** means an election or by-election at the municipal, regional, school board, provincial or federal level of government, political party election or the submission of a question or by-law to the electors.
- 4.7. **Election Period** means that period of time in which an individual can be nominated as a candidate in an Election through to and including Election voting day.

- 4.8. **Election Sign** means 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 limitation a banner, awning, canopy, marquee, menu board, poster, billboards and vehicle magnets or decals used to advertise or promote a candidate in an Election or to advertise or promote any question or By-Law submitted to electors in an Election.
- 4.9. **Nomination Day** is the date designated under the Act or such other dates designated by provincial or federal legislation as applicable.
- 4.10. **Policy** means this "Prohibition on the Use of Corporate Resources during an Election" policy.
- 4.11. **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 staff and co-operative placement staff.
- 4.12. **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" to a question referred to in Subsection 8(1), (2), or (3) of the Act and has been erected or displayed without the authorization, direction, or involvement of a Candidate.
- 4.13. **Third Party Advertiser** means in relation to an Election in the Town, an individual, corporation or trade union that is registered under Section 88.6 of the Act.
- 4.14. **Town Facilities** means any real or intangible property owned, operated or otherwise under the control of the Town including its land, buildings, structures (e.g. gateway signs) 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.
- 4.15. **Voting Place** shall mean a place where electors cast their ballots as approved by the federal, provincial, or municipal election official and shall include the real property on which the voting place is located and adjacent road allowances.

## 5. Interpretation



Any reference in this policy to any statute or By-Law, or any section of a statute or By-Law shall, unless expressly stated, be deemed to be reference to the statute or By-Law as amended, replaced, re-enacted, or restated from time to time. Any references to a Town policy shall be deemed to be a reference to the most recent passed policy and any replacements thereto.

## **6. General Policy Conditions**

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

### **6.1. Town Property and Facilities during the Election Period**

- 6.1.1. 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 an Election Period, except that vehicles which may identify a Candidate can during an Election Period be parked in public parking spaces at Town Facilities, provided that such vehicles are being parked temporarily to allow for a Candidate to access the services at the Town Facility, not including a Voting Place .
- 6.1.2. During the Election Period, Town Facilities may not be used for Campaign Activities or used to display any Campaign. For greater certainty, Town Facilities that may not be used in relation to Campaign Activities or Campaign Materials include the Town's municipal building located at 33 Talbot Street South, or any location at which Town Council hosts its regular 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 made available to the public.
- 6.1.3. Candidates and registered third parties may not hold or host Campaign Activities at any Town Facilities.
- 6.1.4. Notwithstanding 6.1.1 and 6.1.2 above and subject to availability Candidates Meetings may be held at Town Facilities for a nominal fee provided that all Candidates for office are invited to attend such Candidate's Meetings and provided that there is no use or distribution of Campaign Materials at such Candidate's Meeting.

- 6.1.5. Candidates shall not Campaign and or distribute Campaign Materials on any Town Facilities, including during any function being hosted by the Town whether the function is being undertaken on or in Town Facilities or not.

## 6.2. **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:

- 6.2.1. No photographic, video or digital material created or used by the Town may be used in any Campaign Activities or Campaign Materials.
- 6.2.2. No printing or distribution of any materials using Town funds that make reference to, contain the names of, photographs of, or identify registered Candidates; with exception that the use of adopted minutes of Town Council and Town committee meetings is exempt from this Policy.
- 6.2.3. Any materials from websites, domain names and social media accounts that are funded by the Town may not include any Campaign Material nor be used for Campaign Activities and for further certainty, candidates are:
  - 6.2.3.1. Permitted to link from the Candidate's Campaign website or social media accounts any informational record, report or data set of the Town made available to the public, or on a public Town webpage;
  - 6.2.3.2. Not permitted to use or link onto their own webpage or otherwise in any Campaign Materials, Town photographic or video materials which identifies the Town or which can reasonably be identified with the Town;
  - 6.2.3.3. 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;
- 6.2.4. Sitting members of Council or Town Staff shall not use any of the Town's information technology resources, including individual websites linked through the Town's website and social media accounts use for communication, for any Campaign or Campaign Activities;

If a sitting member of Council or Town Staff uses any social media account for Campaign Activities, such an account must not be created or supported by Corporate Resources. Social media accounts used for campaign purposes must utilize personal cell phones, personal tablets, or personal computers. In particular, Town issued cell phones, tablets and computers etc. cannot be used to create any Campaign Materials nor post any such Campaign Materials to social media accounts or websites and this Policy reserves the right of the Town to audit compliance with this provision;

- 6.2.5. Sitting members of Council who choose to create or use social media accounts for Campaign Activities must include, for the duration of the Election Period, a clear statement on each Campaign website or social media account; Examples of this statement include: **Disclaimer:** This social media account is maintained strictly in my personal capacity as a candidate for municipal office. This account does not reflect or represent the official duties, responsibilities, or communications of the Town of Essex or Town Council. Nothing posted on this account shall be construed as municipal direction, official information, or commentary made in my official role. Or (short version) **Disclaimer:** Campaign account only. Not an official Town or Council communication. Views/content are solely in my capacity as a candidate.
- 6.2.6. Candidates must not, under any circumstances, use a Town logo, crest, slogan or any other items or variation thereof which identifies with or which the public reasonably identifies with the Town on any Campaign Material or Election Signs;
- 6.2.7. During the Election Period, any Staff engaged in Campaign Activities must take care to separate those personal activities from their official positions. Staff may participate in Campaign activities at the federal, provincial and municipal levels provided that such Campaign Activity is conducted in accordance with any employment, confidentiality or other agreement or policy of the Town that the Staff is bound by and does not take place during such Staff member's work hours or during the time such Staff members are otherwise acting in the capacity of Town Staff. Staff further shall not use Town Facilities for any Campaign Activities and in particular:



- 6.2.7.1. Staff shall not produce, display or distribute any Campaign Materials in support of a Candidate at any Town Facilities or using any Corporate Resources;
- 6.2.7.2. Staff shall not canvass or actively work in support of a Candidate or political party during normal working hours unless such Staff member is on a leave of absence from the Town without pay, lieu time, float day, or vacation leave;
- 6.2.7.3. Staff shall not canvass or actively work in support of a Candidate or political party while wearing a uniform, badge, logo, or any other item identifying them as Town Staff, or using a vehicle owned or leased by the Town.
- 6.2.8. Corporate Resources including, but not limited to, the Town's logo, crest, slogans etc. either in print or digital format, may not be used for any Campaign Activities;
- 6.2.9. Candidates and registered Third Parties Advertisers 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, Third Party Advertisers, or in support of or opposition of a question on a ballot.
- 6.2.10. During the Election Period, Candidates must make any information requests, technical support and/or other miscellaneous requests of Town Staff directly to the Town's Chief Administrative Officer or the Town's Clerk in order to determine if such requests can be accommodated in accordance with this Policy.
- 6.2.11. Any Staff receiving requests for information from a Candidate during the Election Period shall consult with the Town's Chief Administrative Officer or the Town's 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 Town's Clerk.
- 6.2.12. Any requests by a Candidate to attend at Town Facilities or for any meetings with any Staff as well as any requests for tours of Town Facilities must be made to and preapproved by the Town's Chief Administrative

Officer or the Town's Clerk in order to determine if such requests can be accommodated in accordance with this Policy.

- 6.2.13. 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.

### **6.3. Attending Town Events during an Election Period**

- 6.3.1. Candidates, Registered Third Party Advertisers and 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 Campaign Materials may be displayed or disseminated at such Town events.
- 6.3.2. Elected officials are permitted to attend Town organized events or events held at 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, during an Election Period, 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.

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

In accordance with the Town's Council Discretionary Fund Policy, access by members of Council 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 Act, until the completion of the 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 or not:

- 6.4.1. 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.

- 6.4.2. Signage for Town events, including banners and posters, will not reference the name of a member of Council.
- 6.4.3. 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 \* Councillor", "Deputy Mayor of Essex" 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.
- 6.4.4. Ceremonial documents such as proclamations, 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.
- 6.4.5. 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.
- 6.4.6. 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.
- 6.4.7. During the Election Period, no member of Council, including the Mayor shall:
  - 6.4.7.1. Advertise in their capacity as a member of Council, including in Town funded publications;
  - 6.4.7.2. Print, photocopy or distribute any materials in their capacity as a member of Council; and

- 6.4.7.3. Order any stationery or business cards, except within reason and as needed to carry out their duties as a current member of Council.
- 6.4.8. During the Election Period, no member of Council, including the Mayor shall use the services of the Town's Integrity Commissioner for the purposes of seeking advice related to their Campaign.

## 7. Responsibilities

### 7.1. General Duties:

- 7.1.1. **Council** has the authority and responsibility to:
  - 7.1.1.1. Adopt all new and amended Town policies in accordance with legislative changes, best practices, and good corporate governance.
- 7.1.2. The **Chief Administrative Officer** has the authority and responsibility to:
  - 7.1.2.1. Oversee all policies and procedures of the Town.
  - 7.1.2.2. Direct the review of Town policies to provide Council with policy updates reflective of legislative changes, best practices, and good corporate governance.
- 7.1.3. The **Senior Management Team** has the authority and responsibility to:
  - 7.1.3.1. Review and provide recommendations with regard to amended or new Town policies prior to Council consideration.
  - 7.1.3.2. Review and identify Town policies that require amendments in accordance with legislative changes, best practices, and good corporate governance.
  - 7.1.3.3. Determine the need for developing new Town policies to address such things as emerging trends, legislative changes, or service delivery methods.
  - 7.1.3.4. Consult other relevant stakeholders when necessary.
  - 7.1.3.5. Ensure appropriate training is provided so any new Town policies are well communicated and understood.
- 7.1.4. The **Clerk** has the authority and responsibility to:
  - 7.1.4.1. Provide support in the development and revision of Town policies.
  - 7.1.4.2. Review draft Town policies and provide advice and recommendations relative to risk management.

7.1.4.3. Maintain the Town's policy management program by conducting research on policy issues, identifying gaps, and coordinating amendments for legislative changes in consultation with departmental staff.

7.1.4.4. Arrange for Town policies to be posted to the Town's website when deemed necessary by the Senior Management Team.

7.1.4.5. Determine areas of overlap in existing/new Town policies and recommend rescinding or revising where necessary.

7.1.5. **Staff** have the responsibility to:

7.2. **Comply with all policies approved by Council. Policy Duties**

7.2.1. **Council, including the Mayor** has the authority and responsibility to:

7.2.2. Adhere to all applicable rules established by this Policy, including compliance with any Act, By-Law and policy noted herein;

7.2.3. Ensure during the Election Period that the content of any communication material, including printed materials such as newsletters, advertising, etc., that the Town funds for the operation of each Council member's office is not directly election-related;

7.2.4. Refrain during the Election Period from advertising in their capacity as a member of Council, including in Town funded publications;

7.2.5. Refrain during the Election Period from printing, photocopying or distributing any materials in their capacity as a member of Council;

7.2.6. Refrain during the Election Period from using the services of the Town's Integrity Commissioner during for the purposes of seeking advice related to their Campaign;

7.2.7. Refrain during the Election Period from ordering any stationery or business cards, except within reason and as needed to carry out their duties as a current member of Council; and

7.2.7.1. Consult independent legal counsel where Council is unsure of their obligations under this Policy.

7.2.8. **Candidates** have the authority and responsibility to:

7.2.9. Adhere to all applicable rules established by this Policy, including compliance with any Act, By-Law and policy noted herein; and

7.2.9.1. Consult independent legal counsel where the Candidate is unsure of their obligations under this Policy.

7.2.10. The **Chief Administrative Officer** has the authority and responsibility to:

7.2.10.1. Determine if any Staff receiving requests for information from a Candidate during the Election Period can provide such information; and

7.2.10.2. Approve or deny in accordance with this Policy any requests by a Candidate to attend at Town Facilities or for any meetings with any Staff as well as any requests for tours of Town Facilities.

7.2.11. The **Clerk** has the authority and responsibility to:

7.2.11.1. Make a determination regarding compliance with this Policy;

7.2.11.2. Determine if any Staff receiving requests for information from a Candidate during the Election Period can provide such information;

7.2.11.3. Provided to all Candidates, any information provided to one Candidate that is of a general nature and which may provide valuable guidance to all others, in a manner deemed appropriate by the Clerk; and

7.2.11.4. Approve or deny in accordance with this Policy any requests by a Candidate to attend at Town Facilities or for any meetings with any Staff as well as any requests for tours of Town Facilities.

7.2.12. Staff have the responsibility to:



- 7.2.12.1. Adhere to all applicable rules established by this Policy, including compliance with any Act, By-Law and policy noted herein; and
- 7.2.12.2. Consult the Clerk or independent legal counsel, as appropriate, where Staff is unsure of their obligations under this Policy.

## **8. References and Related Documents**

- 8.1. *Municipal Act, 2001*
- 8.2. *Municipal Elections Act, 1996*