

THE CORPORATION OF THE TOWNSHIP OF KERNS

BY-LAW NO. 2022-10

**BEING A BY-LAW TO ADOPT THE USE OF CORPORATE
RESOURCES FOR ELECTION PURPOSES POLICY**

WHEREAS subsection 88.18 of the Municipal Elections Act, 1996, c.32, as amended, states, “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”;

AND WHEREAS The Municipal Elections Act, 1996, as amended, establishes rules and regulations governing the financing of municipal election campaigns in Ontario;

AND WHEREAS The Municipal Elections Act, the Election Finances Act (Ontario), and the Canada Elections Act prohibit a Municipality from making contributions in any form to a candidate or registered third party;

AND WHEREAS The Council of the Corporation of the Township of Kerns find it expedient to adopt guidelines and provisions for any candidate 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;

NOW THEREFORE the Council of the Corporation of the Township of Kerns hereby enacts the following as a by-law:

1. That the ‘Use of Corporate Resources for Election Purposes Policy’ is hereby adopted as set out in Schedule ‘A’; and
2. That this by-law shall come into force and effect on the date of passing.

READ a FIRST, SECOND, and THIRD TIME and FINALLY PASSED this 3rd day of May, 2022.





REEVE



CLERK

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1. Policy Statement

The Municipal Elections Act, 1996, as amended, establishes rules and regulations governing the financing of municipal election campaigns in Ontario. The Municipal Elections Act, the Election Finances Act (Ontario), and the Canada Elections Act prohibit a 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:

1. 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;
2. Members of Council shall not be precluded from performing their duties as an elected Official, nor inhibited from representing the interests of their constituents; and
3. Information and communication related to an election shall continue to be open and accessible to the public with content to be produced, and approved by the Clerk.

2. Purpose

The purpose of this policy is to create guidelines in the Township of Kerns 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.

3. Scope

This policy applies to all candidates, political parties, constituency associations, registered third parties, township employees, members of Council, members of local agencies, boards and committees, and persons or groups supporting or opposing a question on a ballot as well as anyone acting on their behalf.

This policy also applies to an acclaimed Member or a Member not seeking re-election.

4. Definitions

- 4.1. **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 identify the individual as a candidate or registrant without the solicitation of votes.
- 4.2. **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.

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- 4.3. **Campaign Period** means:
- i. In the case of a regular municipal election the date a candidate files their nomination through to Voting Day in a municipal election year or in the event of a by-election.
 - ii. In the case of a provincial or federal election or by-election, the date the Writ is issued until Voting Day.
- 4.4. **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 in accordance with the Municipal Elections Act, 1996, S.O. 1996, c.32, Part 6 of the Canada Elections Act, S.C. 2000, c.9. and the Election Act (Ontario), R.S.O. 1990, c.E.6. 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.
- 4.5. **Clerk** means the Municipal Clerk of The Corporation of the Township of Kerns or their designate, or a returning officer appointed under Section 7(1) of the Municipal Elections Act, 1996, S.O. 1996, c.32.
- 4.6. **Corporate Resource** means items, staff, services, or resources which are the property of the Township of Kerns 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.
- 4.7. **Election** means municipal, federal or provincial election including by-elections.
- 4.8. **Election Period** means the official Campaign period of an election for:
- i. A municipal or school board election; the Election Period commences on the first day prescribed for the filing of nominations in accordance with the Municipal Elections Act and ends on voting day.
 - ii. A provincial or federal election; the Election Period commences the day the writ for the election is issued and ends on voting day.
 - iii. A nomination for a political party, the Election Period is the nomination contesting period as determined by the Party.
 - iv. 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.
 - v. A municipal or school board by-election; the period commences on the first day nominations may be filed and ends on voting day.
- 4.9. **Local Board** has the same meaning as found in Section 1 of the Municipal Act, 2001.
- 4.10. **MEA** means the Municipal Elections Act, 1996, as amended, S.O. 1996, c. 32.

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- 4.11. **Member(s)** means Township Councillors, the Reeve or anyone acting on behalf of a Township Councillor or the Reeve.
- 4.12. **Municipal Facility/Building** means any building or facility owned or operated by the Township of Kerns.
- 4.13. **Municipal Office** means the Township of Kerns administration building or Town Hall located at 903303 Hanbury Road, New Liskeard, ON, P0J1P0.
- 4.14. **Registered Third Party** shall have the same meaning as "Registered Third Party" as found in section of the Municipal Elections Act, 1996 or the term "Third Party" as defined in section 1 of the Election Finances Act (Ontario) and Canada Elections Act, as the context requires.
- 4.15. **Township** means The Corporation of the Township of Kerns and includes its agencies, local boards and commissions.
- 4.16. **Township Employee** means for the purpose of this Policy any individual working for, or receiving compensation from the Township of Kerns; including those in part-time, seasonal or contract positions.

5. Policy & Procedures

5.1. Responsibilities

- a. Candidates and Registered Third Parties are to adhere to the guidelines and parameters established by this policy.
- b. The Clerk is to administer this policy and provide any related procedures as deemed necessary or desirable for conducting an election.
- c. Members of Council, Members of Local Agencies, Boards and Committees, and Township Employees are to ensure that Corporate Resources, as identified by this Policy, are not used for campaigning.
 - a. This Policy does not preclude a Member of Council from performing their duties as a Councillor, nor inhibit a Member of Council from representing the interests of their constituents.
 - b. Nothing in this policy shall preclude a Township Employee from exercising their civic duty to participate in the municipal election process.

5.2. Corporate Resources – Technology

The following is provided for greater clarity when considering the use of corporate technology resources:

- a. 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

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includes, but is not limited to, functionality through municipally issued laptops, tablets, smartphones such as calendar, email, texts, etc.

- b. Distribution lists, contact lists, and ratepayer information acquired, developed and provided utilizing municipal resources or through contact in a Member's role shall not be used for election purposes.
- c. Once a Member of Council registers to be a Candidate, any links from the Township's website or social media account to their website or social media pages will be removed from the Township's webpages if the Member's website or social media page contains or will contain Campaign Material. Subsequently, all Council biographies will be removed from the Township's website effective the first day of the nomination period. During the election period, Reeve and Council information on the Township's website will be reduced to council-related contact information only. Notwithstanding the foregoing, information contained on the Freedom of Information Release Form as part of the nomination process, may be included on the Township of Kerns's election webpage(s).
- d. The Township'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.

5.3. Corporate Resources – Communications

The following is provided for greater clarity when considering the use of corporate communication resources:

- a. Members of Council may not use Council portraits funded by the Township, either as a corporate or Member expense, in Campaign Materials.
- b. Photographs produced for and owned by the Township may not be used for any election purposes.
- c. Candidates or Registered Third Parties may not print, distribute or make reference to any of the Township's email addresses, telephone numbers, or facility addresses on any Campaign Materials. Notwithstanding the foregoing, Candidates or Registered Third Parties may provide the election telephone number, election email address, or a link to the Township's official election website or webpages in Campaign Materials for electors to access additional information about the election and the voting process.
- d. The Township's subscriptions to any weekly, or annual media subscriptions shall not be used to distribute campaign-related messages. 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.

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5.4. Corporate Resources – Municipality Facilities/Buildings

The following is provided for greater clarity when considering the use of Municipal Facilities/Buildings, including Municipality owned or leased lands, as Corporate Resources:

- a. Candidates or Registered Third Parties are prohibited from using the Township's Municipal Office for any election-related purpose.
- b. No Member, Candidate or Registered Third Party shall use any Municipal Facility/Building for any election-related purpose unless a market value rental fee has been established corporately and the rental of such is available to all candidates and third parties.

Exception:

At the Clerk's discretion, the only exception is an All Candidates' Meeting organized by a local group between Nomination Day and Election Day.

To qualify as an All Candidates' Meeting, the meeting must be organized by a group not affiliated with any particular Candidate or Registered Third Party and must invite all Candidates running in the Election to participate.

- c. For Candidates or Registered Third Parties that have rented a Municipal Facility/Building for campaigning purposes, the distribution or display of campaign materials is only permitted during the rental period and only with the rented area.
- d. Any Candidate may attend any public Committee, Advisory Committee or Council meeting; however, they shall not use this forum to speak on, or address, any matter relating to their Campaign.
- e. Candidates or Registered Third Parties are prohibited from renting space (e.g., a booth) as part of a Township's organized event.
- f. All Candidates and Registered Third Parties must adhere to the provisions set out in any other municipal policies pertaining to Municipal Facilities/Buildings.

5.5. Corporate Resources – Township Employees

- a. Township Employees are prohibited from using Corporate Resources for the benefit of a Candidate or Campaign.

5.6. Corporate Resources – Integrity Commissioner

- a. The Township's appointed Integrity Commissioner is considered to be a Corporate Resource, under contract with the Township and may receive, from time to time, compensation from the Township in accordance with services provided.

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- b. Members of Council shall not use the services of the Township's Integrity Commissioner during the Election Period for the purposes of seeking advice related to their Campaign.

5.7. Corporate Resources – Limitation

- a. Nothing in this Policy shall prohibit a Member of Council from performing their job as Reeve or as a Councillor, nor inhibit them from representing the interests of the constituents who elected them.
- b. This policy is 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.

Summary

Corporate Resources and funding shall not be used by a Candidate or Registered Third Party for Campaigning or election-related purposes.

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