

# Municipal Election Procedures



**Procedures approved and authorized by the Returning Officer for use  
during the 2022 Municipal Election.**

Original Version: June 1, 2022

Updated: October 12, 2022 (for clarification)

Updated: October 18, 2022 (for clarification)

**Jenny Leblond**  
**CAO Clerk/Returning Officer**

\*This Guide is provided for information purposes and is subject to change, with updates noted and posted on the website. Please refer to the legislation for specific reference.

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The forms and notices will be provided in English and French where required by Legislation.

# Introduction

Municipal Elections and By-elections are conducted in accordance with the Municipal Elections Act, S.O. 1996, as amended, hereinafter referred to as the MEA. The Township of Chisholm shall be using an alternative voting method that involves the use of a mail-in ballot, as authorized by section 42 of the MEA. The Municipality will be using Datafix as the third-party provider for Vote by Mail for the 2022 Municipal Election. They are widely used by Ontario Municipalities, and they are obligated to meet the security requirements appropriate for a municipal election in Ontario. Where an authorized alternative voting method is used, subsection 42(3) requires that the Clerk establish procedures and forms for the use of the alternative voting method, and subsection 42(4.2) provides that the Clerk's procedures and forms, if they are consistent with the principles of the MEA, prevail over anything in the MEA and the regulations made under it.

The procedures contained in this document, and the forms related to it, have been developed as required by the MEA, and may be revised as deemed necessary by the Clerk up to and including Voting Day. Any and all changes made after the publication date of June 1, 2022 shall be provided as amendments to the document as follows:

1. For Candidates who have already filed nomination papers, amendments and a consolidated version of the procedures shall be emailed to the address shown on filed Nomination Forms.
2. For Candidates who have not already filed, they shall be provided as with a consolidated version of the procedures at the time of filing.
3. The amendments and the consolidated versions shall be posted on the Township of Chisholm website election page.

Questions with respect to these procedures may be directed to:

Jenny Leblond, CAO Clerk Treasurer

2847 Chiswick Line

Powassan ON P0H1Z0

Phone: 705-724-3526

Fax: 705-724-5099

Email: [j.leblond@chisholm.ca](mailto:j.leblond@chisholm.ca)

## Definitions

- a) "**Act**" means the Municipal Elections Act 1996, SO 1996 c.32 as amended.
- b) "**Ballot**" means a secret vote in which people select a candidate in an election, or express their opinion about something.
- c) "**Candidate**" means a person nominated under s.33 of the Act.
- d) "**Certified Candidate**" means a candidate whose nomination was certified by the Clerk under s.35 of the Act.
- e) "**Clerk**" means the Clerk of the Township of Chisholm who is responsible for conducting this election under the authority of the Act. All references to the Clerk for the purposes of this manual shall mean the Returning Officer (R.O.). All references to Clerk's designate shall mean the delegated duties of the R.O.
- f) "**Election**" means the 2022 School Board and Municipal elections conducted by the Returning Officer (R.O).
- g) "**Election Calendar**" means the period between the first day of nominations to nomination day. The first day that nominations can be filed for a regular election will be May 2nd. Nomination day (the deadline to file a nomination) for a regular election will move to the Friday, August 19, 2022 for the 2022 election.
- h) "**Election Official**" means the Clerk or other person appointed in writing by the Clerk to carry out election duties under the Act. An Election Official can only carry out the tasks and duties as assigned in writing by the Clerk, and must take the prescribed Oath under s.15 of the Act.
- i) "**Forms**" means the forms provided by the Ministry and template from the Municipal Election Manual provided by AMCTO.
- j) "**Friend**" means any person who is requested by an elector to assist him or her in the voting process.
- k) "**Voting Station**" means a location designated by the Clerk where individuals may be added to the Voters' List and to provide assistance and clarification on the election process.
- l) "**Municipal Office**" means the Township of Chisholm, 2847 Chiswick Line, Ontario
- m) "**Nomination Day**" means the deadline to file a nomination for a regular election,

which is August 19, 2022 for the 2022 election.

- n) **"Preliminary List of Electors"** or **"PLE"** means a list of electors for the Municipality compiled by the Municipal Property Assessment Corporation (MPAC) and provided to the Municipality by July 31st of an election year under s.19 of the Act.
- o) **"Proof of Identification"** means proof of identity and residence as prescribed in O. Reg. 304/13 of the Act.
- p) **"Regular Office Hours"** means Monday to Friday, 8:30 am to 4:30 pm.
- q) **"Scrutineer"** means an individual, appointed in writing by a certified candidate, to represent him or her during the election.
- r) **"Time/Clock"** means the time as indicated on the National Research Council Canada Web Clock showing official times for the Eastern Time Zone.
- s) **"Voters' List"** means the Preliminary List of Electors, as corrected by the Clerk, under the provisions of s.19 and s.22 of the Act.
- t) **"Voting Day"** means the final day on which the vote is to be taken in an election and shall be Monday October 24, 2022 with the close of voting to be at 8:00 pm.
- u) **"Voting Period"** means the period in which an eligible voter may cast their vote.
- v) **"Website"** means the designated municipal website for election information ([www.chisholm.ca](http://www.chisholm.ca)).

# Authority

## **Duties and Powers of Clerk (s.11 and 12)**

The Clerk is responsible for conducting the election, including responsibility for:

- (a) preparing for the election;
- (b) preparing for and conducting a recount in the election;
- (c) maintaining peace and order in connection with the election; and
- (d) in a regular election, preparing and submitting the accessibility report.

The Clerk may provide for any matter or procedure that:

- (a) is not otherwise provided for in an Act or regulation; and
- (b) in the Clerk's opinion, is necessary or desirable for conducting the election.

## **Procedures and Forms**

Section 42 states that the procedures and forms established by the Clerk, if they are consistent with the principles of the Act, prevail over anything in the Act and the regulations made under it.

## **Unforeseen Cases**

Any unforeseen cases not dealt with in these procedures will be recorded, action taken, and reflected in an addendum signed by the Clerk.

# Nominations

## **Nomination Papers (s.33)**

A person may be nominated for an office by filing a nomination in the Clerk's Office, in person or by an Agent. The nomination must be endorsed by at least twenty five (25) persons and may endorse more than one nomination. Effective May 2, 2022, the nomination of a person for an office on Council must be endorsed by at least twenty five (25) persons, and they may endorse more than one nomination. The person endorsing a nomination must be eligible to vote in an election for an office within the municipality, if a regular election was held on the day that the person endorses the nomination.

"Nomination Paper" for the following offices will be available at the Clerk's Office from Monday, May 2, 2022 to Thursday, August 18, 2022 during regular office hours (9:00 am to 4:30 pm), and between 9:00 am and 2:00 pm on Friday, August 19, 2022 (Nomination Day) for the following offices:

- (1) Mayor**
- (4) Councillor(s)**

Nomination papers for school boards must be obtained and filed at the appropriate Municipal Office for the following offices:

- (1) School Board Trustee – English Public
- (1) School Board Trustee – English Separate
- (1) School Board Trustee – French Public
- (1) School Board Trustee – French Separate

Nominations must be filed with the Clerk in the following manner:

- in person or through an agent, using the prescribed forms;
  - during regular office hours (9:00 am to 4:30 pm) at the Municipal Office from Monday, May 2, 2022 to Thursday, August 18, 2022 and between 9:00 am and 2:00 pm on Friday, August 19, 2022 (Nomination Day);
  - with the prescribed statement of qualifications, signed by the person being nominated;
  - with the prescribed nomination filing fee of \$200.00 for Head of Council and \$100 for all other offices – the filing fee shall be paid by cash, certified cheque or money order payable to the municipality;
  - with proof of identity and residence as prescribed in O. Reg. 304/13;
  - no faxed or other electronically transmitted nomination paper will be accepted – original signatures are required.
- The Clerk will administer the necessary oaths.

#### **Estimated Maximum Campaign Expenses (s.33.0.1)**

The Clerk shall calculate the estimated maximum campaign expenses for each office and provide a copy to the candidate or his/her agent the day that the Nomination Paper is filed in accordance with s.33. The Clerk's calculation is final.

#### **Notice of Penalties (s.33.1)**

The Clerk shall, prior to voting day, provide a notice of penalties on the "Notice of Penalties and Corrupt Practices" to the candidate or their agent.

#### **Municipal Freedom of Information & Protection of Privacy Act (MFIPPA)**

The candidate may sign the consent to release personal information authorizing the Clerk to release personal information to the public and media.

#### **Unofficial List of Candidates**

The Clerk shall provide notice of the unofficial list of candidates by preparing and posting in the Municipal Office and on the website an "Unofficial List of Candidates" which is to be updated as each Nomination Paper is filed. The list should be clearly marked "Unofficial". The Clerk must obtain authorization from the candidate to post their personal information, such as their addresses. The list is indicated as "unofficial" until the nominations have been certified.

#### **Nomination Day – August 19, 2022**

Nomination Papers will be received at the Municipal Office between 9:00 am and 2:00 pm on Nomination Day.

The procedure for the handling of Nomination Papers on Nomination Day will be the same as above.

**Certification of Nomination Papers (s.35 (1))**

On or before Monday August 22, 2022, at 4:00 pm, the Clerk will do a review of each nomination received to determine qualification and if the nomination complies with the Act. Once satisfied the candidate is qualified, the Clerk shall certify the nomination.

**Rejection of Nomination Paper (s.35 (3))**

If the Candidate is not qualified to be nominated, or the nomination does not comply with the Act, the Clerk will reject the Nomination. A telephone call shall be made to the candidate informing him/her of the rejection, and a "Notice of Rejection of Nominations" shall be sent, by Registered Mail, as soon as possible, to:

- the person who sought to be nominated; and
- all candidates for the office.

**Withdrawal of Nominations (s.36)**

Candidates may withdraw their Nomination by filing in person a written withdrawal on "Withdrawal of Nomination" with the Clerk before 2:00 pm on Nomination Day, Friday August 19, 2022, if the person was nominated on or before Nomination Day. Any withdrawals sent by email, mail or fax are not permitted as it must be filed in the Clerk's Office.

The withdrawal shall be noted on the "Unofficial List of Candidates".

**Official List of Candidates**

The final list of certified candidates will be posted at the Municipal Office and on the website on or before Wednesday August 24, 2022 using the "Official List of Certified Candidates".

**Declaration of Election (s.40)**

If after 4:00 pm on Monday, August 22, 2022, the number of certified nominations filed for an office is more than the number of persons to be elected to the office, the Clerk shall declare an election to be conducted.

The Clerk shall give the electors notice of the following using a variety of methods:

- a) The dates and times of the voting period; and
- b) The location and hours of operation of Voting Stations

**Acclamations (s.37(1))**

If after 4:00 pm on Monday, August 22, 2022, the number of certified candidates for an office is the same as or fewer than the number to be elected, the Clerk shall immediately declare the candidate(s) elected by acclamation. The Clerk shall post a "Declaration of Acclamation to Office". In this situation there shall be no election conducted for the position(s).



**Fewer Number of Nomination Papers than Offices (s.33(5))**

If at 4:00 pm on Monday, August 22, 2022, the number of certified nominations filed for an office is fewer than the number of persons to be elected to the office, additional nominations may be filed between 9:00 am and 2:00 pm on Wednesday, August 24, 2022. The Clerk shall post a “Notice of Additional Nominations” advising that additional Nomination Papers may be filed for that office during the specified time.

If at 2:00 pm on Wednesday, August 24, 2022, additional Nomination Papers have been filed, the procedure to certify or reject Nomination Papers shall be followed.

**Additional Nominations More than Number of Offices Remaining (s.33(5))**

If between 9:00 am and 2:00 pm on Wednesday, August 24, 2022, there are more than a sufficient number of certified Nominations to fill the office(s), an election shall be conducted with the names of the persons who have filed certified Nomination Papers.

**Withdrawal of Additional Nominations**

Withdrawal of additional nominations must take place prior to 2:00 pm on Wednesday, August 24, 2022, following the procedure in the Withdrawal of Nomination Paper section above.

**Additional Nominations Equivalent to Number of Offices (s.37(2))**

If at 4:00 pm on Thursday, August 25, 2022 there is a sufficient number of certified Nomination Papers filed to fill the office(s), the Clerk shall post a “Declaration of Acclamation to Office”.

**Insufficient Number of Nomination Papers Filed to Form a Quorum – Municipal Council (s.37(4)1)**

If the number of Nomination Papers filed is insufficient to form a quorum of the Municipal Council, a by-election shall be held.

**Sufficient Number of Nomination Papers Filed to Form a Quorum– Municipal Council (s.37(4))**

If the number of Nomination Papers filed is less than the number of positions for an office of the Municipal Council, but does form a quorum, s.263(1) a of the Municipal Act, 2001, as amended, shall apply.

**Death or Ineligibility of a Candidate (s.39)**

If a certified candidate dies or becomes ineligible before the close of voting;

- the result would be an acclamation for an office, the election to such office is void and a by-election for such office shall be held; and
- the result would be one fewer candidate only and no acclamation; the candidate's name shall be omitted from the ballot.

No votes are to be counted for the candidate who has died or become ineligible.

### **Final Calculation of Campaign Expenses (88.20(13))**

The Clerk shall, after determining from the number of eligible electors from the Voters' List for each office, calculate the maximum amount of campaign expenses that each candidate may incur for that office and prepare a "Certificate of Maximum Campaign Expenses". The certificate shall be delivered to each candidate on or before September 26, 2022. The Clerk's calculation is final and shall be made in accordance with the prescribed formula in O. Reg. 101/97.

# **Voters' List**

### **Voter Qualifications (s.17(2))**

A person is entitled to be an elector if, on Voting Day (October 24, 2022) he/she:

- (i) is a Canadian citizen;
- (ii) is at least 18 years old;
- (iii) resides in the local municipality, or is the owner or tenant of land in the local municipality, or the spouse, of such a person; and
- (iv) is not prohibited from voting under s.17(3) of the Act, or otherwise, by law.

### **Certification of Voters' List**

The Preliminary List of Electors (PLE) supplied by the Municipal Property Assessment Corporation shall be delivered to the Clerk by July 31, 2022.

The PLE shall contain the name and address of each person who is entitled to be an elector and additional information the Clerk needs to determine for which offices each elector is entitled to vote, such as school support. The name of each non-resident elector shall be entered on the PLE for the voting subdivision in which the elector or his or her spouse is an owner or tenant of land.

It is possible for an elector's name to appear on the Voters' List of more than one municipality and may be eligible to vote in both municipalities. For example, a person listed as a resident elector in one municipality and a non-resident elector in another municipality is entitled to vote in each, provided they are not voting for the same office more than once. An elector may only vote once for School Board Trustee in the jurisdiction of the Board.

The Clerk shall correct any obvious errors in the PLE prior to Friday August 31, 2022 and notify the Municipal Property Assessment Corporation. The corrected PLE becomes the Voters' List.

The Clerk may use any information that is in the Municipality's custody or control when correcting the PLE for obvious errors (s.22(2)).

The Voters' List shall be reproduced and identified with a "Voters' List Cover Sheet" on or before September 1, 2022.

The Clerk shall inform electors using various methods how revisions are to be made to the Voters' List. If available through MPAC, an online voter look up tool will be made available on the Municipality's website beginning September 5, 2022 for this purpose.

**Requests for Copies and Proper Use of the Voters' List**

Upon request, the Clerk shall provide every candidate the part of the Voters' List that contains the names of the electors who are entitled to vote for that office in hard copy. Each candidate will be required to sign the "Declaration of Proper Use of the Voters' List". The use of the Voters' List shall be in accordance with the "Policy for Use of the Voters' List". Candidate copies must be returned to the Clerk following the election for destruction.

**Access to the Voters' List (s.88(10) and (11))**

Legislation states that the Voters' List cannot be posted in a public place and can be used only for election purposes.

**Amendments to the Voters' List**

The Voters' List may be amended using the prescribed form "Application to Amend Voters' List" and providing proof of identity and residence as prescribed in O. Reg. 304/13, between the 1 day of September, 2022 to the 24 day of October, 2022 and on the 24 day of October until 8:00 pm.

Other names can be removed from the Voters' List by using "Application for Removal of Another's Name from the Voters List", between September 1 to October 24, 2022. The Clerk may, on his or her own initiative, remove a person's name from the voters' list until the close of voting on voting day if the Clerk is satisfied that the person has died. (s.25(1)).

On or before September 26, 2022, the Clerk will determine the total number of electors on the Voters' List. This number will be necessary to calculate the "Certificate of Maximum Campaign Expenses" for the 2022 Municipal Election.

**Interim List of Changes (s.27(1))**

The Clerk shall prepare an "Interim List of Changes" on or before September 15, 2022 to the Voters' List and circulate as required.

**Final List of Changes (s.27(2))**

The Clerk shall prepare the "Final List of Changes" to the Voters' List by November 23, 2022 and send to MPAC.

# Campaigning

Campaigning is permitted no earlier than the filing of Nomination Papers by the candidate. Information contained in/on all campaign material is the responsibility of the candidate and any questions or concerns should be directed to the candidate.

## **Municipal Employee Communication with Candidates**

The following provides direction to candidates on the handling of questions directed to and meetings with Municipal staff. Every effort will be made to provide information to all candidates to ensure fairness and transparency.

## **Election-related Questions**

Questions pertaining to all matters related to the election process, including the voting method, shall be directed to the Returning Officer:

Jenny Leblond, CAO Clerk Treasurer  
2847 Chiswick Line  
Powassan ON P0H1Z0  
Phone: 705-724-3526  
Fax: 705-724-5099  
Email: j.leblond@chisholm.ca

## **Questions pertaining to the Municipality's Administration**

All other questions should be directed to the Chief Administrative Officer, who will follow up with the necessary staff.

Answers to questions posed by candidates will be shared with all registered candidates without identifying the questioner and posted on the Municipal website generally within one week.

## **Access to Staff**

Candidates are invited to set up meeting requests through the CAO's office. An appointment should be arranged in advance.

To ensure fairness, access to senior staff shall be the same for all candidates, including existing Members of Council.

Answers to questions asked of staff in person will be recorded and shared with all candidates.

### **Use of Municipal Logo or Other Insignia**

The use of the municipal logo or other insignia for campaign purposes is strictly prohibited.

### **Municipally Owned/Leased Facilities**

Election campaigning or the distribution/posting of election campaign material at municipally-owned or leased facilities is not permitted, with the exception of road allowances.

### **Use of Corporate Resources During an Election Year**

The Township of Chisholm's Use of Corporate Resources for Election Purposes, states that:

- No member shall use the facilities, equipment, supplies, services, staff or other resources of the municipality (including newsletters and budgets) for any election campaign or campaign related activities.
- No member shall undertake campaign-related activities on municipal property during regular working hours.
- No member shall use the services of persons during hours in which those persons receive compensation from the municipality.

### **Signs**

#### **Are there any places that are restricted to place a sign?**

- Election signs shall not be placed on Municipal property, except in road allowance areas;
- Election signs shall not be placed on private property without the owner's consent.

#### **Can I put a logo on the election sign next to my name?**

No person shall display a logo, trademark or official mark on any election sign.

#### **What date can I start to display my election signs?**

Signs can be displayed no sooner than ***Monday, September 12, 2022.***

#### **How many days do I have after the election to remove my election signs?**

All election signs must be removed by the candidate or the candidate's representative by **11:59 p.m. on Wednesday, October 26, 2022.**

#### **What are the height restrictions for election signs?**

Posts used should not be higher than the top of the sign area to cause any safety hazard such as wood or metal stakes or posts with sharp edges.

#### **Can I display an election sign on my vehicle? If so, what are the restrictions?**

- Signs can be displayed no sooner than ***Monday, September 12, 2022.***
- Signs shall not be displayed within the property of the voting station at any time while the voting station is open to the public.
- Signs shall not be displayed upon the property where the office for the administration of the election is located.

**Can the Municipality remove an election sign without notifying the candidate?**

The Municipality reserves the right to remove, without notice to any person, including the candidate, any election sign which it deems to be a hazard.

**Vandalism**

The investigation or prosecution for any acts of vandalism to the posters or campaign material of the candidates should be referred to the local police force by the complainant. The Municipality or any of its municipal officers, employees or agents will not be responsible.

**Electors Requiring Assistance (s.52(1)4)**

The election official may permit an elector who needs assistance in voting to have such assistance as the election official considers necessary.

# Scrutineers

**Rights and Prohibitions**

Each scrutineer shall be responsible for his/her conduct, rights and prohibitions as set out on the applicable appointment form.

**Appointment by Candidate and Qualification**

A candidate may appoint scrutineers to represent him/her at the Municipal Office, the opening of the voting station, and during the receipt of voting results, including during a recount.

The appointment shall be made using the "Appointment of Scrutineer". The forms to appoint scrutineers must be signed by the candidate in person at the Municipal Office. The candidate shall provide this signed form to their scrutineer.

**Number per Candidate**

Not more than one (1) scrutineer representing each candidate may be permitted at one time during the closing of the voting place. Only one candidate or his/her appointed scrutineer may be in attendance at the voting place. The scrutineer/candidate must take an "Oral Oath of Secrecy" at the voting place.

**Evidence of Appointment**

A person appointed as a scrutineer, before being admitted to the voting place, shall show his/her applicable appointment form and provide proof of identity and residence as prescribed in O. Reg. 304/13 to the Election official.

# VOTE BY MAIL PROCEDURE

## a) PROVISION OF KITS

- i) The Township of Chisholm will be using Datafix as the third-party provider for Vote by Mail for the 2022 Municipal Election. Datafix shall ensure that all Vote by Mail Kits printed are either mailed directly to Electors as per the Voters' List, or provided to the Municipal Clerk's Office for provision of supplemental and replacement Kits as outlined in this section.
- ii) The Vote by Mail Kit shall consist of:
  - Voting Instruction Sheet / Voter Declaration Form
  - Ballot
  - Secrecy Envelope (inner envelope for ballot)
  - Return Envelope (yellow outer envelope with prepaid postage)
- iii) Due to the time period between the Vote by Mail cut-off and mailing, the following processes are established for the provision of Vote by Mail Kits to qualified Electors.
  - For qualified Electors on the Voters' List or added to the Voters' List up to and including September 12, 2022, a Vote by Mail Kit shall be mailed on or about September 26, 2022 by Datafix to the Elector's address as shown on the Voters' List.
  - For qualified Electors who are added after September 12, 2022 a supplemental Vote by Mail Kit shall be either provided in person or mailed from the Municipal Office to the Elector's address as shown on the Voters' List. The Municipality shall only send the Vote by Mail Kit by regular Canada Post mail; provide it to the qualified Elector or his or her agent in person at the Municipal Office; or at the Electors' request send it by priority mail/courier envelope paid for by the Elector or Agent and provided to the Clerk or Designate.
  - Once Datafix has confirmed that the Vote by Mail Kits have been mailed, the Municipal Clerk shall set a date after which a replacement Kit may be provided if the original is not received by mail. If a qualified Elector does not receive his/her Vote by Mail Kit by Mail by the set date, or if the Elector's address has been changed such that it can be determined that the Vote by Mail Kit will not be delivered to the Elector by the set date, or if the Vote by Mail Kit is lost or destroyed, a replacement Vote by Mail Kit may be issued by the Clerk or Designate.
  - In order to receive a replacement Kit, the Elector must provide to the Clerk or Designate a completed Application for Replacement Vote by Mail Kit, which

may be filed electronically as specified on the form. If the Clerk or Designate determines that a replacement Kit should be issued, the Clerk or Designate shall provide the replacement Kit by one of the following means:

1. in person to the Elector, or his or her Agent (see section “iv”) attending at the Municipal Office at 280 Main St. N.;
  2. by regular Canada Post mail; or
  3. by priority mail/courier envelope paid for by the Elector or Agent and provided to the Clerk or Designate.
- iv) In order for an Agent to be authorized to receive a supplemental or replacement Vote by Mail Kit, the Clerk or Designate shall be provided with written permission bearing the Elector’s original signature. The Agent shall be required to complete the Agent’s Declaration Form in the presence of the Clerk or Designate.
- v) It shall be recorded in Voterview when an Elector has been issued a new Vote by Mail Kit, which shall invalidate the declaration form for the original Kit.
- vi) Despite efforts to make the Voters’ List as accurate as possible when it is generated as per section 2(a) of these procedures, inaccuracies do occur. Additionally, people may move after the List is generated. As a result, Vote by Mail Kits may be returned by Canada Post to the Municipality as undeliverable to the address on the Voters’ List. When this happens, the Clerk or Designate shall review the returned Kits to attempt to determine the current address. If the Clerk or Designate can readily determine the current mailing address and continued eligibility from information that is in the Municipality’s custody or control, he or she may forward the Kit to the current mailing address and note the address to which the Kit was forwarded. If the current address cannot be readily determined from information in the Municipality’s custody or control, the returned Kit shall be retained with the replacements Kits and the original may be provided instead of a replacement Kit under subsection (iii). The Municipality shall not make changes to the Voters’ List based on this information, instead the elector shall be asked to submit an application to have their own information amended on the Voters’ List.

b) COMPLETION AND RETURN OF BALLOTS

- i) In order to successfully vote using the Vote by Mail Kit, the instructions in the Kit, and outlined in this section, must be followed.
- ii) The Elector must complete the ballot and place it in the inner Secrecy Envelope and seal the envelope. An Elector who needs assistance in voting by mail may have such assistance as the Elector considers necessary.
- iii) The Elector must sign the Voter Declaration Form. If an Elector is physically unable to sign the form, he/she may instead make their mark (i.e. an “X”) on the signature line of the Voter Declaration Form and have a witness sign and verify that it is the Elector’s mark, in which case the Form shall be deemed to be signed by the



- Elector. The Voter Declaration form must then be placed, along with the sealed Secrecy Envelope, in the yellow, prepaid business reply, Return Envelope.
- iv) The yellow, prepaid business reply Return Envelope may be mailed, or may be deposited in the Municipal Office Drop Box. Return Envelopes mailed in Canada are prepaid.
  - v) The final day to deposit the Return Envelope in the mail to ensure delivery to the Clerk shall be printed on the instructions in the Kit. Following this date, Electors are encouraged to deliver their Return Envelope to the Municipal Office or to a designated drop off location before 4:00 p.m. on Voting Day or bring it to the Voting Place on Voting Day. Additionally, Electors may choose to send their Return Envelope by priority mail or courier at their own expense.
  - vi) The Clerk or their Designate shall attend the local post office at the end of their business day on Monday, October 24, 2022, to pick up any Return Envelopes received.
  - vii) The mail drop box for the Municipal Office (located beside the main entrance), can be used during or after hours prior to 4:30 p.m. on Voting Day, Monday, October 24, 2022. **Between the hours of 4:30 p.m. and 8:00 p.m. on Voting Day, Return Envelopes may ONLY be delivered to the Voting Place.**
  - viii) **It is the responsibility of each Elector** to complete the ballot in accordance with the Municipal Elections Act, 1996 and the procedures set out in the Vote by Mail Kit, and then return it to the Municipal Clerk by mail, or by deposit at a Municipal Office drop off location during the designated hours, or at the Voting Place, so that it is **received no later than 8:00 p.m. on Voting Day.**
  - ix) **Ballots received after 8:00 p.m. on Voting Day shall not be counted**, but shall be date stamped and retained for the statutory document retention period.
- c) PROCESSING OF YELLOW RETURN ENVELOPES
- i) Notice of the schedule of dates and times for Return Envelope Opening Sessions for the processing of the yellow return envelopes shall be emailed to each Candidate and posted on the Municipal website's election page prior to September 15<sup>th</sup> . If determined necessary by the Clerk, this schedule may be amended to cancel any date, or to add any other date or dates with a minimum of 24 hours advance notice to candidates.
  - ii) A minimum of two Designated Election Officials shall be present at each Return Envelope Opening Session to open the Return Envelopes. Each Candidate or his/her duly appointed Scrutineer may be present at the opening.
  - iii) At each Return Envelope Opening Session, the yellow Return Envelopes that have been received either by mail or drop box shall be processed as follows:
    - (1) The envelope shall be opened by a Designated Election Official and the sealed Secrecy Envelope and Voter Declaration Form shall be removed.

- (2) The Election Official shall verify that the Voter Declaration Form(s) has/have been signed and that there is one Voter Declaration Form for each Secrecy Envelope contained in the Return Envelope.
  - (3) The Election Official shall update the Voters' List by electronically "striking" names from the list by scanning the bar code on the Voter Declaration Form or by recording the Voter Declaration Form number manually in Voterview.
  - (4) The Election Official shall deposit the sealed Secrecy Envelope containing the completed ballot into the ballot box in full view of the authorized persons present.
- d) There should be one unmarked, sealed, Secrecy Envelope and one signed Voter Declaration Form contained in each Return Envelope. For the purpose of this section, the Return Envelope and any and all Voter Declarations Forms, Secrecy Envelopes and ballots contained therein shall be referred to as a "Kit". Any variance in a Kit received shall be treated in the following manner:
- i) If a Return Envelope contains more than one Voter Declaration Form or more than one Secrecy Envelope, but contains equal numbers of Secrecy Envelopes to Voter Declaration Forms the Kit shall be accepted.
  - ii) If the Return Envelope contains more Secrecy Envelopes than Voter Declaration Forms or more Voter Declaration Forms than Secrecy Envelopes the Kit shall be rejected.
  - iii) If the Secrecy Envelope(s) has/have not been sealed, the Election Official may seal the envelope without examining the ballot.
  - iv) If, upon opening the Return Envelope where equal numbers of signed Voter Declaration Form(s) and ballot(s) are present but the ballot(s) is/are not in a Secrecy Envelope, the Election Official may immediately insert the ballot into a Secrecy Envelope without examining the ballot and the Kit shall be accepted.
  - v) If the Voter Declaration Form is not signed, the Elector's name and address shall be noted, and the Secrecy Envelope and the Voter Declaration Form shall both be placed in the envelope and recorded with rejected ballots and sealed at the end of the opening session. The Clerk or Designate shall attempt to contact the Elector to advise them of the deficiency. The Elector shall not be recorded as having voted, and shall be given the opportunity to obtain a replacement Vote by Mail Kit.
  - vi) If the Voter Declaration Form is signed but not within the designated signing area and the Clerk or Designate rules that the intent of the Elector is clear, the Kit shall be accepted.
  - vii) If the Secrecy Envelope has been opened and resealed by the Elector prior to mailing, but has no identifying marks on the Secrecy Envelope, or other disqualifying reasons, the Kit shall be accepted.
  - viii) If there are identifiable marks on the sealed Secrecy Envelope the Election Official may open the Secrecy Envelope, remove the ballot without examining it or allowing others to examine it and place it in a new Secrecy Envelope and seal it and if there are no other disqualifying reasons, the Kit shall be accepted.

- ix) If the Elector's name has already been struck off the Voters' List as having voted, the Voter Declaration Form shall be marked as such, recorded and together with the Secrecy Envelope be placed in the Rejected Ballot envelope and sealed at the end of the opening session, and the Kit shall be rejected.
- e) All rejected Kits shall have the reason for rejection marked on them and be stored in a secure location for the duration of the statutory retention period.
- f) Accepted, sealed, Secrecy Envelopes shall be placed in the ballot box. At the end of each Return Envelope opening session, the box shall be sealed and placed in a secure location under the control of the Clerk. Certified Candidates or Scrutineers who are present may place their own seal on the ballot box (or initial the Clerk's seal) and initial the seal over the insert slot in the ballot box and sign the Vote-by-mail Ballot Box Activity Label. At the next published processing date, for the purpose of inserting additional envelopes if the ballot box is not full, the seal over the insert slot may be broken by a minimum of two Designated Election Officials, in the presence of any Candidates/Scrutineers; and the time recorded on the activity label. At the end of the processing session, the ballot box shall be resealed as above. Only on Voting Day shall the secrecy envelopes be removed from the ballot box and the ballots be removed from the Secrecy Envelopes.
- g) On Monday, October 24, 2022, the sealed Secrecy Envelopes shall be transported to the Counting Centre as designated by the Clerk for counting as outlined in section 6 of this procedure.
- h) The Clerk shall prepare a weekly list showing the name of each person who has been recorded as having voted by mail and shall on the request of a Scrutineer or certified Candidate give him or her a copy of said list.

## Count Procedures

- a) The Clerk shall establish a suitable location within the Municipal Office as the Ballot Counting Centre. Only the Clerk, Deputy Returning Officers, appointed Election Officials, certified Candidates and authorized Scrutineers shall be permitted to remain in the Ballot Counting Centre. Cell phones or other equipment shall not be permitted in the Ballot Counting Centre other than for Election Officials.
- b) Candidates and Scrutineers shall be provided with an area near the "Counting Stations" for observation. As per the MEA, they are permitted to examine, but not to touch, ballots. Candidates and Scrutineers shall not interfere with the vote count in any manner. Should they do so, they shall be required to leave the facility when so requested by any Election Official.
- c) No campaign material shall be allowed within the Ballot Counting Centre.

- d) The doors to the Ballot Counting Centre shall be locked after the close of the Voting Place and prior to the commencement of the counting of ballots on Voting Day, on Monday, October 24, 2022, and only Election Officials shall be allowed to enter thereafter. Candidates and Scrutineers leaving the Ballot Counting Centre after the commencement of counting shall not be permitted to return.
- e) On Monday, October 24, 2022, at the commencement of counting, Secrecy Envelopes shall be removed from the sealed containers, grouped into bundles of fifty (50) and delivered to the appropriate Deputy Returning Officer and Election Official for counting of the ballots. The sealed Secrecy Envelopes shall be opened and ballots counted. One Tally Sheet will be used for each counting team to count 5 bundles of 50 ballots. A Composite Ballot Statement will be used to confirm the results of each counting teams one tally sheet of up to 5 bundles of 50 ballots. There will be two counting teams, one labelled "A" and the other labelled "B". Each bundle of 50 ballots will be named with the team letter plus a number sequence starting at 1. For example, A1 will be the first bundle of 50 to team A and B2 would be team B's second bundle of 50. Bundle names will be recorded on the Tally Sheet and the Composite Ballot Statement. When the initial fifty (50) ballots are counted, a second bundle of fifty (50) shall be delivered for counting, and so on until all ballots have been counted.
- f) In the event a ballot is accidentally cut when the sealed Secrecy Envelope is opened, the Election Official shall repair the ballot and attach a notice advising that the damage to the ballot was caused by the Election Official.
- g) If, upon opening the sealed Secrecy Envelope at the Ballot Counting Centre, the envelope contains a ballot which has not been marked, it shall be counted as a Ballot Used but Unmarked by Elector.
- h) **REJECTION OF BALLOTS**  
In addition to rejecting cast ballots for violations of the Municipal Elections Act, 1996 the following conditions shall also cause a ballot to be considered rejected if upon opening the sealed Secrecy Envelope at the Ballot Counting Centre:
  - i) the envelope contains more than one ballot;
  - ii) the ballot contains writing or marks that may identify the Elector, or is torn, defaced or otherwise dealt with in a way by the Elector that may identify him or her;
  - iii) The ballot is not a current Township of Chisholm ballot.
  - iv) The item is anything other than a ballot.
- i) All rejected ballots shall be numbered on the back of the ballot and identified in the corresponding list outlining the reason for rejection. Rejected ballots shall be stored in a secure location for the duration of the statutory retention period.
- j) After the completion of the count of 5 bundles of fifty (50) ballots, a Composite Ballot Statement for those bundles shall be completed, signed by the Deputy Returning Officer and Election Official and, if desired, initialed by any certified Candidate or Scrutineer present for the count and forwarded for tabulation.

- k) The original Composite Ballot Statement shall be forwarded to the Designated Tabulation Centre for tabulation. The duplicate copy shall remain affixed to the bundles of ballots.
- l) Once all ballots have been counted, the ballots shall be secured, the ballot boxes sealed and returned to the Clerk for secure storage.

## Notice of Results

The unofficial results of each candidate shall be made available by the Clerk no earlier than 8:15 pm on Monday, October 24, 2022 Voting Day, at the Municipal Office, 2847 Chiswick Line, Powassan ON and the Clerk shall post the same **Unofficial Results** on the municipality's website.

As soon as possible after Voting Day, the Clerk shall declare the **Official Results** using "Declaration of Election Results" and post the results at the Municipal Office and on the municipal website.

Notice of election results for each school board race shall be provided to the responsible Municipal Office for each of the elections.

## Recount

A recount under sections 56, 57, or 58 shall be conducted in the same manner as the original count as per s.60 (1) unless ordered otherwise by a judge under s.60 (3).

A recount is required when:

- there is a tie vote where both or all candidates cannot be declared elected (Automatic);
- by resolution of Council (for Council offices);
- by resolution of local board (for offices on a local board);
- by order of the Minister (for questions submitted by the Minister);
- by order of the Superior Court of Justice.

### **Costs of Recount (s.7(3), 7(4))**

The costs incurred by the Clerk to conduct a recount are to be paid by the Municipality. Any expenses incurred by a candidate will be the responsibility of the candidate ie: legal counsel in attendance on behalf of the candidate.

The Clerk shall submit a signed certificate verifying the costs to the appropriate local board, upper tier municipality or Minister who shall in turn be responsible for paying the

costs as soon as possible.

### **Who Conducts Recount (s.56)**

The Clerk conducts all recounts for elections for which he or she is responsible except recounts conducted by the Superior Court of Justice upon appeal.

### **Tied Vote Recount (s.56)**

Where there is a tied vote for the election of a candidate to an office and both or all of the candidates cannot be declared elected, the Clerk must hold a recount **within 15 days after the declaration** required by s.55(4)a)b) of the results of the election.

### **Council, Local/School Board or Minister Request for Recount (s.57)**

Within 30 days after the Clerk's declaration of the results under s.55(4), a Council, local/school board may pass a resolution or, the Minister may make an order requiring a recount.

### **Application to Superior Court of Justice (s.58)**

A person who is entitled to vote in an election and who has reasonable grounds for believing the election results to be in doubt may apply to the Superior Court of Justice for an order directing the Clerk to hold a recount.

The application must be commenced within 30 days after the Clerk's official declaration of the results under s.55(4). The court, if satisfied there are sufficient grounds, shall make an order requiring the Clerk to hold a recount. The recount is to be held within 15 days after the Clerk receives a copy of the order.

### **Votes for Candidates to be included in a Recount (s.56, 59)**

The votes to be included in the recount are as follows:

- In a recount for a tied vote, the votes cast for candidates who are tied.
- In a recount being conducted under the authority of a council or local board resolution, the votes cast for candidates named in the resolution (all or specified candidates).
- In a recount being conducted under the authority of a court order, the votes cast for candidates named in the order (all or specified candidates).

The Clerk may include the votes for any other candidate for the same office. The practical application of this provision would be for the Clerk to include any candidate whose vote total was, in the Clerk's opinion, close enough to possibly be affected by the recount.

### **Persons entitled to be Present at a Recount (s.61)**

- the Clerk and any other election official appointed for the recount;
- every certified candidate for the office involved;
- the applicant, if any, who applied for the recount under s.58;
- legal counsel for any of the above;
- each certified candidate for the office involved or an applicant may appoint a scrutineer

for the recount.

**Notification of Recount (s.56, 57, 58 and O. Reg. 101/97)**

The Clerk shall give notice of the recount date, time and place on “Notice of Recount” to the following:

- all certified candidates for the office which is the subject of the recount;
- where a resolution is involved, the Council or local/school board which passed the resolution;
- the Minister when an order has been made;
- the applicant in the case of a court order;
- notice of recount will be given by registered mail or personal service.

**Process at Recount (s.61, 62)**

Once the recount process has commenced, it must continue to completion. Upon completion of the recount, the Clerk will announce the results of the recount. Persons authorized to be in attendance at the recount may also be at the announcement of the results of the recount.

Unless an application has been made for a judicial recount, the Clerk, on the 16th day after the recount is completed, will declare the successful candidate or candidates elected or will declare the result of the vote.

**Continuing Tie Vote – After Recount Procedures**

Pursuant to s.62(3) in a case of a tied vote following the recount, the Clerk shall determine the result by conducting a lot as follows:

The Clerk shall write the name of each candidate on equal-sized pieces of paper. They are then put in a container as determined by the Clerk. The Clerk shall announce prior to the draw that “the candidate to be elected shall be the candidate whose name is written on the first piece of paper I draw out of the container.” The paper is pulled from the container and the candidate elected is announced.

**Declaration by Clerk and Notice of Final Certified Results – s.62(4)**

Unless an application has been made for a judicial recount, the Clerk on the 16th day after the recount is completed will declare the successful candidate or candidates elected by posting the “Declaration of Recount Results” at the Municipal Office and on the website. Such Declaration shall be sent to everyone previously given notice of the recount.

# Candidates Financial Disclosure

At least 30 days before the filing date, but no later than February 28, 2023, the Clerk shall give to every candidate whose nomination was filed, by registered mail, notice of all the filing requirements and penalties set out in s.88.23 (2) and 92 (1). The notice shall be given on "Notice to Candidate of Filing Requirements".

A "Notice of Default" shall be given to the candidate by registered mail and to the relevant council or local board in the event that a candidate has not submitted the "Financial Statement" by 2:00 p.m. on March 31, 2023.

Candidates should seek their own advice and counsel regarding campaign finances. A campaign period may be extended in keeping with the procedure and timeframes outlined in the Act.

## **Refund of Nomination Filing Fee (s.34)**

A candidate is entitled to receive a refund of the nomination filing fee if:

- the nomination is withdrawn;
- the candidate is elected to the office; or
- the candidate receives more than 2% of the votes cast
- the documents required under subsection 88.25(1) are filed on or before 2:00 pm on the filing date in accordance with that subsection, as of December 31, 2022.

Refunds will be processed by the end of the election year.

# Third Party Advertising

## **Campaign Period (s. 88.28)**

Contributions can only be made to a registered third party for third party advertisements, and can only be made during the campaign period under section 88.12. A third party advertiser that is registered can only incur expenses during the campaign period. The campaign period is determined by the application of the following rules.

For the municipal election - the election campaign:

- begins on the day the third party registers for the election (registration must be certified by the Clerk); and
- ends on December 31, 2022.



If the third party advertiser becomes involved in a compliance audit after the campaign ends on December 31, 2022, the campaign may be recommenced. Once the third party advertiser notifies the Clerk in writing of the campaign period recommencement, the Clerk shall pay the third party advertiser any surplus being held in trust for the candidate, together with interest. Where the campaign period has recommenced, the third party advertiser may incur expenses and accept contributions until June 30, 2023 or where an alternate provision of the Municipal Elections Act has been met under section 88.2(4).

### **Filing Requirements (s. 88.29, s. 88.30)**

All registered third parties are required to file a financial statement using the prescribed. Candidates, whose campaign contributions and total expenses are each equal to or less than \$10,000, are not required to file an auditor's report with the financial statement. A registered third party whose campaign contributions in the municipality are \$10,000 or whose total campaign expenses exceed \$10,000 are required to file an auditor's report with the financial statement.

The registered third party must file their financial statements and auditor's report in the prescribed forms by 2 pm on March 31, 2023 for the filing period ending December 31, 2022.

At the time of writing, the prescribed forms have not been released by the Province.

If a candidate filed their financial statement prior to the filing date, and then noticed an error, they can withdraw the statement and refile the financial statement and auditor's report by March 31, 2023.

Third party advertisers also have a maximum amount for parties etc. after Voting Day. For the 2022 election, the prescribed formula will use the number of electors on Nomination Day from the 2018 election. The Clerk is to calculate the maximum amount no later than September 26, 2022. When a third party originally registers, the Clerk is to provide a certificate setting out the maximum amount for parties etc. after Voting Day.

### **Application by Third Party for Extension of Filing Date (s. 88.27(3))**

The registered third party may before the last day for filing a financial statement under section 88.30, apply to the Ontario Court of Justice to extend the time for filing the document. The court may grant an extension of up to 90 days. The third party shall notify the Clerk in writing before 2:00 pm on the last day for filing a financial statement under s.88.29 or 88.32 that an application has been made.

### **Clerk to Give Notice (s.88.29)**

The Clerk shall give notice of all of the filing requirements and of the penalties under s.88.27(1) and s.92(4) to every third party at least 30 days before the filing date. Before Voting Day, the Clerk is also required under section 33.1 to give notice of the penalties related to election campaign finances.

### **Campaign Period (s.88.28)**

If the third party advertiser has a deficit at the time the election campaign period would otherwise end and the third party advertiser has notified the Clerk in writing on or before December 31, 2022, the campaign period is extended until the earliest of:

- June 30<sup>th</sup> in the year following the regular election.
- The day the third party notifies the Clerk in writing that he, she or it will not accept further contributions.
- The day A equals the total of B and C, where
  - A = any further contributions.
  - B = the expenses incurred during the extension of the campaign period.
  - C = the amount of the registered third party's deficit at the start of the election campaign period.

### **Supplementary Reporting Periods/Filing Dates (s. 88.30)**

Supplementary filing dates apply where the election campaign period has been extended. The supplementary reporting period is the 6 month period following the year of the election or in the case of a by-election, the supplementary reporting period is the 6 month period following the 45th day after Voting Day.

Where a third party advertiser campaign period continues, he, she or it shall file a supplementary financial statement (including auditor's report if required) for the supplementary reporting period on or before 2 pm on the last Friday in September (September 29, 2023). It should be noted that even if a campaign has been extended, a third party advertiser is required to file the initial financial statement for the reporting period ending December 31, 2022.

### **Campaign Surplus (s. 88.31)**

Where a third party advertiser's financial statement (or supplementary financial statement) indicates an election campaign surplus at the end of the campaign period, the entire surplus amount shall be paid to the Clerk at the time of filing and the Clerk shall hold the monies in trust. If the registered third party subsequently incurs expenses related to a compliance audit, the Clerk shall pay the amount held in trust, with interest, to the third party, MEA. s.88.32.

The surplus becomes the property of the municipality/local board when all of the following conditions are satisfied:

- The campaign period has ended under s.88.28;
- It is no longer possible to recommence the campaign period (s.88.28);
- No compliance audit proceeding has been commenced; and
- The period for commencing a compliance audit proceeding has expired.

### **Third Party Filing Default (s.88.27(1))**

A registered third party cannot participate in the next regular election if;

- They did not file their financial statement;
- There was a surplus and this surplus was not paid to the Clerk;
- The financial statement shows that the third party advertiser exceeded their expense limit; or
- If a document filed under s.88.32 has a surplus and the third party registered has not paid the surplus to the Clerk by the relevant date.

**Clerk to Give Notice of Default (s. 88.27(2))**

The Clerk is required to notify the registered third party in writing that a default has occurred and the nature of the default. The Clerk also has to make this information public.

# Election Records

**Candidates**

All Voter information obtained by the candidate during the 2022 Municipal Election shall be destroyed by the candidate after the election and confirmed in writing to the Clerk. The candidate may return documents to the Clerk for destruction with other election material.

**Clerk – Disposition of Records (s.88)**

Subject to a Judge’s order or recount proceedings, after 120 days from declaring the results under s.55, the Clerk shall destroy the ballots in the presence of two witnesses who shall complete the “Witness Statements as to Destruction of Records” . The Clerk may also destroy any other documents and materials related to the election. The Clerk shall retain candidates’ financial statements and auditor’s report until the members of the council or local board elected at the next regular election have taken office. The ballots and any other documents shall not be destroyed if a court orders that they be retained and a recount has been commenced and not finally disposed of.

# Accessibility

**Electors and Candidates with Disabilities**

The Clerk shall have regard to the needs of electors and candidates with disabilities.

**Location - Accessibility**

The Clerk shall ensure that each voting place is accessible to electors with disabilities and has established help to assist electors who require accommodation.

## **Report**

Prior to Voting Day, the Clerk must prepare a plan for the identification, removal and prevention of barriers that affect voters and candidates with disabilities and make the plan available to the public.

Within 90 days after Voting Day in a regular election but no later than Monday, January 23, 2023, the Clerk shall submit a report to Council about the identification, removal and prevention of barriers that effect electors and candidates with disabilities.

# **Emergencies**

The Clerk may declare an emergency if of the opinion that circumstances have arisen that are likely to prevent the election being conducted in accordance with the Act. On declaring an emergency, the Clerk shall make such arrangements as deemed advisable for the conduct of the election. The arrangements made by the Clerk, if they are consistent with the principles of this Act, prevail over anything in this Act and the regulations made under it.

The emergency continues until the Clerk declares that it has ended. If made in good faith, the Clerk's declaration of emergency and arrangements shall not be reviewed or set aside on account of unreasonableness.

The Clerk shall provide notice of such emergency to the best of their ability and in keeping with the circumstance.

# **Corrupt Practices**

Although many provisions of the Act also deal with voting places, ballots and ballot boxes, etc. the same must be used interchangeably with the alternative forms of voting since the principle of the Act must be maintained and is therefore enforceable and subject to penalties.

## **Offences, Penalties and Enforcement (s.89 and 90)**

The principles and the integrity of the election process are enforceable. Section 89 of the Act provides for penalties and enforcement of corrupt practices and other offences during an election process. These include a person who:

- votes without being entitled to do so;
- votes more times than this Act allows;

- induces a person to vote when that person is not entitled to do so;
- before or during an election, publishes a false statement of a candidate's withdrawal;
- furnishes false or misleading information to a person whom this Act authorizes to obtain information;
- without authority, supplies a voter credentials/ballot to anyone;
- takes, opens or otherwise deals with a ballot without having authority to do so; and
- deals with voter credentials/ballot, without having authority to do so.

No person shall solicit a Voter Information Letter containing voter credentials from an eligible elector. All valid complaints or knowledge of solicitation shall be reported immediately for investigation of corrupt practices. If a person is convicted of an offence and the offence was committed knowingly, the offence also constitutes a corrupt practice.

### **Notice of Penalties**

Section 88.19 of the Municipal Elections Act outlines the details of expenses a candidate may incur. Pursuant to Section 88.20(13), within 10 days after the Clerk has made corrections to the Preliminary List of Electors received from MPAC, the Clerk will calculate the maximum permitted expenses for each office and will provide a Certificate of the applicable maximum to each candidate.

Section 88.25(1) of the Municipal Elections Act states that "on or before 2 p.m. on the filing date, a candidate shall file with the Clerk with whom the nomination was filed a financial statement and auditor's report, each in the prescribed form, reflecting the candidate's election campaign finances,

- a) in the case of a regular election, as of December 31 in the year of the election; and
- b) in the case of a by-election, as of the 45th day after voting day."

Section 88.31 of the Municipal Elections Act outlines details of a candidate's "surplus" if contributions exceed expenses and a candidate's "deficit" if the reverse is true.

Section 88.23(1) of the Municipal Elections Act provides that a candidate is subject to the penalties listed in Subsection (2), in addition to any other penalty that may be imposed under this Act,

- a) if the candidate fails to file a document as required under section 88.25 or 88.32 by the relevant date;
- b) if a document filed under section 88.25 shows on its face a surplus, as described in section 88.31, and the candidate fails to pay the amount required by subsection 88.31 (4) to the clerk by the relevant date;
- c) if a document filed under section 88.25 shows on its face that the candidate has incurred expenses exceeding what is permitted under section 88.20; or
- d) if a document filed under section 88.32 shows on its face a surplus and the candidate fails to pay the amount required by that section by the relevant date.

Section 88.23(2) of the Municipal Elections Act provides for the following penalties in the case of a default described in subsection (1):

- a) the candidate forfeits any office to which he or she was elected and the office is

- deemed to be vacant; and
- b) until the next regular election has taken place, the candidate is ineligible to be elected or appointed to any office to which this Act applies.

Section 92(1) of the Municipal Elections Act provides that a candidate is guilty of an offence and, on conviction, in addition to any other penalty that may be imposed under this Act, is subject to the penalties described in subsection 88.23 (2),

- a) if the candidate incurs expenses that exceed the amount determined for the office under section 88.20; or
- b) if the candidate files a document under section 88.25 or 88.32 that is incorrect or otherwise does not comply with that section.

# Discretionary Powers of the Clerk

## **Discretionary Authority (s.12)**

A Clerk who is responsible for conducting an election may provide for any matter or procedure that;

- is not otherwise provided for in an Act or regulation; and
- in the Clerk's opinion, is necessary or desirable for conducting the election.

Other than the forms prescribed by the Minister, the Clerk has the authority to establish forms, including forms for oaths and declarations that are required to be used. The Clerk's authority also includes the power to require a person to furnish proof that is satisfactory to the election official as to the person's identity or qualifications including citizenship or residency.

The Clerk's authority does not include the power to require a person for the purposes of the procedure set out in s.52(1) – (Voting Procedure) to furnish proof of identity and residence in addition to what is prescribed. The discretionary authority provided to the Clerk in the MEA brings with it a degree of risk and inherent liability.

Under the revised MEA, Clerks have expanded powers/discretion, where no Council approval is required in the following areas:

- establishment of advance voting dates, locations and hours;
- establishment of reduced voting hours at long term care facilities;
- management of the Voters' List (additions/deletions/modifications);
- determination of whether filing of financial statements electronically will be permitted and any conditions or limits associated with electronic filing; and
- authority to develop a policy and present to Council for adoption of a By-law by May 1 of an election year to define circumstances under which a recount would be

conducted.

The following chart outlines the Implied and Direct Discretionary Authority of the Clerk. It is not an exhaustive list, but captures a large amount of the legislation.

<b>The Municipal Elections Act, 1996, as amended, as amended Implied and Direct Discretionary Authority of the Clerk</b>	
<b>Section</b>	<b>Short Description</b>
	<b>Summary of Broad Discretionary Authority</b>
7;8(7);45	The Clerk has authority and control over the costs incurred for an election.
7(3)1	The Clerk shall bill a local board or upper tier municipality for the costs of a recount in a regular election for a local board or municipality, a by-law or question submitted by an upper tier or local board or Minister.
7(3)4	The Clerk shall bill for costs when the Clerk counts the votes or conducts a recount of a ranked ballot election for an upper-tier municipality, if the member of council of the upper-tier municipality is not also elected to the council of the lower-tier municipality within the upper-tier municipality.
7(12)	The Clerk of a municipality can incur expenses in respect to a question which are required or authorized by this Act to be incurred.
8(6)	The Clerk is responsible for giving notice to the public for any question on the ballot, regardless of whether it was initiated by a municipality, an upper tier or a Minister.
11(1)	The Clerk is responsible for conducting elections. Unless otherwise provided, the Clerk has broad discretionary authority to determine the form and method of communication for notices, forms and other information provided by the Act.
12(1)	The Clerk may provide for any matter or procedure that is not specifically provided for in the Act or Regulations.
12(2)	The Clerk may establish forms such as oaths, statutory declarations and has the power to require their use.
12(3)	The Clerk may require a person to furnish proof of identity, qualification or any other matter.
12(4)	The power given the Clerk does not include the power to require a person for the purposes of s.52(1) – voting procedure – to furnish proof of identity and residence in addition to what is prescribed.
12.1	The Clerk shall have regard to the needs of electors and candidates with disabilities.
12.1(2)	The Clerk shall prepare a plan regarding the identification, removal and prevention of barriers that affect electors and candidates with disabilities and shall make the plan available to the public before Voting Day in a regular election.
12.1(3)	Within 90 days after Voting Day in a regular election, the Clerk shall prepare a report about the identification, removal and prevention of barriers that affect electors and candidates with disabilities.
13(1)	The Clerk shall determine the form, manner and timing of any notice or other information required by the Act.
22(2)	For the purposes of subsection (1) – correction of errors in the preliminary list, the Clerk may use any information that is in the local

	municipality's custody or control.
53(1)	The Clerk has discretion in determining what constitutes an emergency or circumstances that will undermine the integrity of the election.
53(2)	The Clerk has discretion in a declared emergency to make any arrangements deemed necessary for the conduct of the election.
53(4)	The Clerk determines when the emergency has passed.
55(4.1)	The Clerk shall, as soon as possible after Voting Day, make information available on the number of votes for each candidate, the number of declined and rejected ballots and the number of votes (yes or no) on a by-law or question and determine website or electronic format.
	<b>Cost of Elections</b>
7(2)(4); 8(7)	The Clerk has authority and control over the finances of an election.
	<b>Notice of By-laws and Questions</b>
8(6)	The Clerk shall determine the form and method of notice to the electors of by-laws and questions to be placed on the ballot.
	<b>Certification of Vote Results</b>
8(9)	The Clerk shall determine the form of certification when giving the result of the vote on a question or by-law.
	<b>Information to Electors</b>
12.1(1)	The Clerk shall identify strategies to provide for the needs of electors and candidates with disabilities.
12.1(2)	The Clerk shall prepare a plan regarding the identification, removal and prevention of barriers that affect electors and candidates with disabilities before Voting Day in a regular election.
12.1(3)	Within 90 days after Voting Day in a regular election, the Clerk shall prepare a report about the identification, removal and prevention of barriers that affect electors and candidates with disabilities.
13(2)	The Clerk may determine what information is necessary to inform electors how to exercise their rights under the Act.
45(8)	The Clerk may issue instructions to Deputy Returning Officers (DRO) regarding attending on an elector in an institution or retirement home.
	<b>Appointment of Election Officials</b>
15(1)	The Clerk shall appoint a Deputy Returning Officer (DRO) for each voting place.
15(1)	The Clerk may appoint other election officials in addition to DRO's. The Clerk determines what instruction and training is provided to election officials.
	<b>Delegation of Authority</b>
15(2)(3)(4)	The Clerk may delegate to election officials in writing, any of the Clerk's powers and duties, however, the Clerk may continue to exercise the delegated powers and duties, despite delegation.
	<b>Creation of Voting Subdivisions</b>
18(1)	The Clerk may divide the municipality into voting subdivisions (on or before March 31 in the year of regular election).
18(2)	If the Clerk creates voting subdivisions, he or she shall inform MPAC (on or before March 31 in the year of a regular election).
	<b>Correction of Preliminary List of Electors</b>
19(1)(1.1)	The Clerk and MPAC may agree on a date for the delivery of the Preliminary List of Electors (which must be a date earlier than September 1). If no date agreed upon or prescribed – July 31.



22(1)	The Clerk may correct any obvious errors in the Preliminary List of Electors, and shall notify MPAC of the corrections.
22(2)	For the purposes of subsection (1), the Clerk may use any information that is in the local municipality's custody or control.
25(4)	The Clerk shall determine the format and manner of the written application to remove a deceased person's name.
	<b>Reproduction / Revision of Voters' List</b>
23(2)(a)(b)	The Clerk shall have the Voters' List reproduced on or before September 1 <sup>st</sup> and determine where and at what time applications for revisions to the Voters' List may be made under s.24 and s.25.
24(1)(2)	From September 1 <sup>st</sup> to the close of voting on Voting Day, a person may make an application to be added or removed from the Voters' List or have the information on the Voters' List relating to that person amended.
24(3)	The Clerk may approve or deny applications for revision to the Voters' List.
27(1)(a)(b)	During the period beginning September 15 and ending September 25, the Clerk shall prepare an interim list of changes to the Voters' List approved on or before September 15, and give a copy to each certified candidate and to each person who received a copy of the Voters' List under s.23.
27(2)(a)(b)	The Clerk shall within 30 days after Voting Day prepare a final list of the changes to the Voters' List and give a copy to MPAC.
28(1)	The Clerk shall prepare and certify the Voters' List for use in each voting place.
	<b>Nominations</b>
11.1(4)	The upper-tier Clerk responsible for accepting nominations can determine the format in which to send the names of candidates to lower-tier Clerk.
32	The Clerk shall give notice of the offices for which persons may be nominated and the nomination procedure under this act.
33(1.3)	The Clerk is entitled to rely upon the information filed by the candidates (endorsements).
35(2)(3)	The Clerk shall certify the nomination of qualified persons, and reject the nomination if not satisfied the person is qualified.
35(4)	The Clerk can determine the form and method of giving notice when a nomination is rejected and shall give notice to the person who sought to be nominated and to all candidates for the office, as soon as possible.
	<b>Acclamations</b>
37(1)(2)	The Clerk can determine the method of declaring acclamations.
	<b>Notice of Election</b>
40(a)(b)(c)(d)	The Clerk shall give notice to the electors and determine the form and method of giving such notice about the location of voting places, dates and times open, the manner in which electors may use voting proxies if applicable and if alternative voting methods, the manner in which electors may use the alternative voting methods.
	<b>Ranked Ballots</b>
41.1(4)2	The regulation may establish the powers that the Clerk may exercise in administering ranked ballot elections.
41.1(5)	Regulation may authorize the Clerk to establish procedures.
	<b>Ballot Form</b>

41(2)3	The Clerk can agree to permit another name that a candidate uses to appear on the ballot.
41(2)5	If the surnames of two or more candidates for an office are identical or in the Clerks opinion so similar as to cause possible confusion, the Clerk shall differentiate the candidates on the ballots as the Clerk considers appropriate.
41(3)	The Clerk shall change some or all of the ballots to facilitate voting by the visually impaired without assistance.
41(4)	The Clerk can decide to use separate or composite ballots.
	<b>Voting or Vote Counting Equipment or Alternative Voting Method</b>
42(3)(a)(i)(ii)	Where there is a by-law providing for voting or vote counting equipment or an alternative voting method, the Clerk has discretion in establishing forms and procedures for carrying out the intent of the by-law.
42(3)(b)	The Clerk can determine the method for providing a copy of the procedures and forms to candidates and shall provide a copy of the procedures and forms to each candidate when his or her nomination is filed.
	<b>Advance Vote</b>
42(2)	The Clerk shall establish the date or dates, number, location and hours of Advance Voting.
43(5)(b)(ii)	The Clerk determines how to keep safe any Advance Vote ballot boxes and all other material and documents relating to the Advance Vote.
43(7)	The Clerk determines the method of updating Voters' Lists to reflect Advance Voting and ensures that the Voters' Lists for all voting places are updated to reflect voting that took place at an advance vote.
	<b>Proxies</b>
44(7)	The Clerk may determine what is required to verify that persons are qualified to appoint and be appointed as a voting proxy and if satisfied that the person who appointed the voting proxy is entitled to do so, and that the person appointed is entitled to act as the voting proxy, shall apply a certificate in the prescribed form to the appointing document.
	<b>Voting Places and Procedures</b>
45(1)(3)(5)	The Clerk has discretion in identifying the number and location of voting places and designating the area.
45(2)	In establishing the locations of voting places, the Clerk shall identify strategies that ensure that each voting place is accessible to electors with disabilities.
45(7)1,2,3	A voting place shall be located in an institution for the reception, treatment or vocational training of members or former members of Canadian Forces; an institution which on September 1 <sup>st</sup> 20 beds or more are occupied by persons who are disabled; chronically ill or infirm; and in a retirement home which on September 1 <sup>st</sup> , 50 beds or more are occupied.
45(8)	The Clerk may issue instructions to DRO's regarding attending on an elector in an institution or retirement home to allow him or her to vote.
45(9)	The Clerk shall issue instructions to DRO's regarding attending on electors with a disability, including mobility impaired, anywhere within the defined voting place.
46(2)	The Clerk may establish specific voting places to open on Voting Day before 10:00 am.
46(3)	The Clerk may establish reduced voting hours for a voting place that is only for the use of residents of the institution or retirement home.

47(1)(a)	The Clerk has the discretion to go to or remain in voting places during voting or when votes are being counted.
	<b>Emergency</b>
53(1)	The Clerk has discretion in determining what constitutes an emergency or circumstances that will undermine the integrity of the election.
53(2)	The Clerk has discretion in a declared emergency to make any arrangements deemed necessary for the conduct of the election.
53(4)	The Clerk determines when the emergency has passed.
	<b>Opening Ballot Box</b>
55(3)	The Clerk shall determine the results of the election by compiling the statements of results received from the DRO.
55(4)	The Clerk shall, as soon as possible after Voting Day, declare the elected candidate(s) and the result of the vote on any by-law or question.
55(4.1)	As soon as possible after Voting Day, the Clerk shall make information available on number of votes for each candidate, number of declined and rejected ballots, number of votes (yes or no) on a by-law or question.
55(5)	The Clerk, in the presence of the DRO, can decide to open a ballot box to assist with interpreting the Composite Ballot Statement.
	<b>Recounts</b>
56(1)(1.1)(2)	The Clerk shall hold a recount in accordance with policy within 15 days after declaration of results.
59	The Clerk may decide to include other candidates for an office in a recount.
61(1)1	The Clerk may be present at a recount in the case of a tie vote, or any policy passed, when the Council, Board or Minister requires a recount and when the Ontario Superior Court of Justice orders a recount – s.56,57,58,63
61(2)1	The Clerk may be present at a recount for a by-law or question.
61(6)	The Clerk determines disputes concerning the validity of a ballot or the counting of votes in a ballot.
61(7)	The Clerk may permit others to be present at a recount.
62(3)63(10)	If the recount leaves two candidates tied, the Clerk shall choose the successful candidate by lot.
	<b>By-Elections</b>
65(4)1	The Clerk sets the date of Nomination Day, in the case of a by-election.
65(5)1	The Clerk sets the date of voting if the by-election relates to a question or by-law.
	<b>Financial Reporting</b>
33.0.1(1)	The Clerk determines the form of the preliminary certificate of maximum campaign expenses, upon the filing of a person's nomination and shall give the person, or their agent filing the nomination for the person, a certificate of the applicable maximum amount as of the filing date.
33.1	The Clerk shall, before Voting Day, give notice of the penalties under s.88.23(2) and s.92(1) related to election campaign finance to each person nominated for an office.
88.20(13)(a)(b)	The Clerk determines the form and method of delivery of the certificate of maximum campaign expenses. The Clerk shall calculate the

	maximum amounts permitted by subsections 6(candidate expenses) and subsection 9(expenses, parties etc.) for each office for which nominations have been filed and shall give a certificate of the applicable amounts to each candidate on or before September 25 in a regular election, and within 10 days after the Clerk makes the required corrections in the case of a by-election.
88.22(3)	The Clerk determines the form and process of the notice of default.
88.25(9)	The Clerk determines the form and method of delivery of notice to candidates of the campaign expense filing requirements and shall give notice at least 30 days before the filing date.
	<b>Election Records</b>
88(2)(a)(b)	When the 120-day period has elapsed, the Clerk shall destroy the ballots and may destroy other documents and materials related to the election.
88(4)	The Clerk shall retain the financial statements until the next election.
88(9.1)	The Clerk shall make the documents filed under s.88.25, 88.29 and 88.32 available at no charge for viewing by the public on a website or in another electronic format as soon as possible after the documents are filed.