

Election Year Policies

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	GENERAL

Definitions

1. (1) In this Act,

- “by-election” means an election other than a regular election; (“élection partielle”)
- “candidate” means a person who has been nominated under section 33; (“candidat”)
- “certified candidate” means a candidate whose nomination has been certified under section 35; (“candidat certifié”)
- “clerk” means the clerk of a municipality; (“secrétaire”)
- “fund-raising function” means an event or activity held by or on behalf of a candidate for the purpose of raising funds for his or her election campaign; (“activité de financement”)
- “local board” means a local board as defined in the *Municipal Affairs Act*, including a police village; (“conseil local”)
- “locality” means territory without municipal organization that is deemed to be a district municipality under the *Education Act*; (“localité”)
- “office” means an office election to which is governed by this Act; (“poste”)
- “owner or tenant”, in relation to an election, means a person who is the owner or tenant shown on the assessment roll of land assessed under the *Assessment Act* and a non-residential tenant of land assessed under the *Assessment Act*, whether or not the tenant is shown on the assessment roll, but does not include an owner or tenant of land who is entitled to use the land under a time share contract unless the person is entitled to use the land,
- (a) on voting day, or

(b) for a period of six weeks or more during the calendar year in which voting day of the election is held; (“propriétaire ou locataire”)

“prescribed” means prescribed by the Minister; (“prescrit”)

“qualifying address” means the address that qualifies an elector under section 17; (“adresse habitante”)

“tenant” includes an occupant and a person in possession other than the owner; (“locataire”)

“time share contract” means a contract by which a person acquires the right to use a property for residential purposes,

(a) for a period of time each year, or other interval, and

(b) as part of a plan that provides for the use of the property to circulate among persons participating in the plan; (“contrat de multipropriété”)

“trade union” means a trade union as defined in the *Labour Relations Act, 1995* or the *Canada Labour Code (Canada)* and includes a central, regional or district labour council in Ontario; (“syndicat”)

“voting day” means the day on which the final vote is to be taken in an election. (“jour du scrutin”) 1996, c. 32, Sched., s. 1; 1997, c. 31, s. 157 (1); 2002, c. 17, Sched. D, s. 1; 2002, c. 17, Sched. F, Table; 2009, c. 33, Sched. 21, s. 8 (1).

Interpretation: presiding judge

(1.1) A reference in this Act to a presiding judge means a judge or a justice of the peace. 2009, c. 33, Sched. 21, s. 8 (2).

Transition: electors of certain boards

(2) In 1997,

(a) “public school elector” includes an elector of the Conseil des écoles publiques d’Ottawa-Carleton and an elector of The Metropolitan Toronto French-language School Council; and

(b) “separate school elector” includes an elector of the Conseil des écoles catholiques de langue française de la région d’Ottawa-Carleton and an elector of the Conseil des écoles séparées catholiques de langue française de Prescott-Russell. 1997, c. 3, s. 11 (1).

Residence

2.(1) For the purposes of this Act, a person’s residence is the permanent lodging place to which, whenever absent, he or she intends to return. 1996, c. 32, Sched., s. 2 (1).

Rules

(2) The following rules apply in determining a person’s residence:

1. A person may only have one residence at a time.
2. The place where a person’s family resides is also his or her residence, unless he or she moves elsewhere with the intention of changing his or her permanent lodging place.
3. If a person has no other permanent lodging place, the place where he or she occupies a room or part of a room as a regular lodger or to which he or she habitually returns is his or her residence. 1996, c. 32, Sched., s. 2 (2).

Exception, students

(2.1) Despite paragraph 1 of subsection (2), a person may have residences in two local municipalities at the same time if,

- (a) the person lives in one of the local municipalities in order to attend an educational institution, but not with the intention of changing his or her permanent lodging place; and
- (b) the person's permanent lodging place is in the other local municipality. 2009, c. 33, Sched. 21, s. 8 (3).

Rules if no permanent lodging place

(3) If a person has no permanent lodging place as described in subsections (1) and (2), the following rules apply in determining his or her residence:

1. The place to which the person most frequently returned to sleep or eat during the five weeks preceding the determination is his or her residence.
2. If the person returns with equal frequency to one place to sleep and to another to eat, the place to which he or she returns to sleep is his or her residence.
3. Multiple returns to the same place during a single day, whether to eat or to sleep, shall be considered one return.
4. A person's affidavit regarding the places to which he or she returned to eat or sleep during a given time period is conclusive, in the absence of evidence to the contrary. 1996, c. 32, Sched., s. 2 (3).

Application of Act

3. This Act applies to:

1. An election to an office on:
 - i. the council of a local municipality,
 - ii. the council of an upper-tier municipality, if the holder of the office is required to be elected by the electors of one or more local municipalities,
 - iii. a local board, if the holder of the office is required to be elected in the same manner as members of the council of a local municipality.
2. An election to obtain the assent of electors to a by-law as required or authorized by law.
3. An election to obtain the opinion of the electors on any question as required or authorized by law. 1996, c. 32, Sched., s. 3.

Regular elections

4. (1) A regular election to fill offices shall be held in 2006 and in every fourth year thereafter. 2006, c. 9, Sched. H, s. 1.

By-laws and questions, municipalities

(2) A vote on a by-law or question that a municipality wishes to submit to the electors shall be combined with the next regular election, unless the municipality provides, by by-law, that the vote shall be held at another time. 1996, c. 32, Sched., s. 4 (2).

Questions, local boards and Minister

(3) Subsection (2) applies with necessary modifications to a vote on a question that a local

board or the Minister wishes to submit to the electors. 1996, c. 32, Sched., s. 4 (3).

Exception

(4) The vote on a question under section 53 or 54 of the *Liquor Licence Act* may be held at another time than the next regular election only with the approval of the Liquor Licence Board of Ontario under section 55 of that Act. 1996, c. 32, Sched., s. 4 (4).

Voting day

5. Voting day in a regular election is the fourth Monday in October, subject to section 10. 1996, c. 32, Sched., s. 5; 2009, c. 33, Sched. 21, s. 8 (4).

Four-year term

6. (1) The term of all offices to which this Act applies is four years, beginning on December 1 in the year of a regular election. 2006, c. 9, Sched. H, s. 2.

Application of subsection (1)

(2) Subsection (1) prevails over a provision in any other Act fixing the term of an office to which this Act applies. 1996, c. 32, Sched., s. 6 (2).

Term continues

(3) The holders of offices continue to hold office until their successors are elected and the newly elected council or local board is organized. 1996, c. 32, Sched., s. 6 (3).

Transition: terms following 1997 school board elections

(4) Despite subsections (1) and (3),

- (a) the term of office of a member of an old board, as defined in subsection 1 (1) of the *Education Act*, continues until the board is dissolved by or under any Act or is merged or amalgamated with a district school board by or under any Act;
- (b) the term of office of a member of a district school board who is elected in 1997 begins on January 1, 1998. 1997, c. 3, s. 11 (2); 1997, c. 31, s. 157 (2).

Same

(5) The term of office of a member of a district school board who is elected in 1997 continues and ends in accordance with subsections (1) and (3) as if the member's term had commenced on December 1, 1997. 1997, c. 3, s. 11 (2).

Cost of election payable by local municipality

7. (1) Unless an Act specifically provides otherwise, the costs incurred by the clerk of a local municipality in conducting an election shall be paid by the local municipality. 1996, c. 32, Sched., s. 7 (1).

Payment on certification

(2) The local municipality shall pay the costs as soon as possible after its clerk has signed a certificate verifying the amount. 1996, c. 32, Sched., s. 7 (2).

Exceptions: recounts, by-elections

(3) Despite subsection (1), the local municipality shall be reimbursed for its reasonable costs in the following situations:

1. When the clerk conducts a recount in a regular election with respect to,
 - i. an office on a local board or upper-tier municipality,
 - ii. a by-law or question submitted by an upper-tier municipality, or

iii. a question submitted by a local board or the Minister.

2. When the clerk conducts a by-election for a local board or an upper-tier municipality or the Minister, or a recount in such a by-election. 1996, c. 32, Sched., s. 7 (3).

Payment on certification

(4) The local board or upper-tier municipality or the Minister, as the case may be, shall pay the costs referred to in subsection (3) as soon as possible after receiving a certificate verifying the amount and signed by the clerk of the local municipality. 1996, c. 32, Sched., s. 7 (4).

(5) Repealed: 2002, c. 17, Sched. D, s. 2.

Submission of by-laws and questions

8. (1) The council of a municipality may pass a by-law to submit to its electors,

(a) a proposed by-law requiring their assent;

(b) subject to section 8.1, a question not otherwise authorized by law but within the council's jurisdiction;

(c) subject to section 8.1, a question, the wording of which is established by an Act or a regulation under an Act. 1996, c. 32, Sched., s. 8 (1); 2000, c. 5, s. 27 (1).

Submission of question, local board

(2) A local board described in subparagraph iii of paragraph 1 of section 3 may pass a resolution to submit to its electors a question not otherwise authorized by law but within the local board's jurisdiction. 1996, c. 32, Sched., s. 8 (2).

(2.1) Repealed: 2000, c. 5, s. 27 (2).

Question by Minister

(3) The Minister may make an order requiring the clerk of a local municipality to submit a question to the electors of his or her municipality. 1996, c. 32, Sched., s. 8 (3).

Transmission to clerk

(4) When an upper-tier municipality acts under subsection (1), its clerk shall transmit to the clerk who is responsible for conducting the election a copy of the by-law and the proposed by-law or question. 1996, c. 32, Sched., s. 8 (4).

Same

(5) When a local board acts under subsection (2), its secretary shall transmit to the clerk who is responsible for conducting the election a copy of the resolution and question. 1996, c. 32, Sched., s. 8 (5).

Restriction

(5.1) For the purposes of a regular election, the clerk who is responsible for conducting the election is not required to submit a by-law or question to the electors unless on or before June 1 of the election year,

(a) in the case of a question of the Minister, the order under subsection (3) is transmitted to the clerk;

(b) in the case of a by-law or question of an upper-tier municipality, subsection (4) is complied with;

(c) in the case of a question of a local board, subsection (5) is complied with; or

- (d) despite the *Fluoridation Act*, in the case of a petition under the *Fluoridation Act*, the petition is transmitted to the clerk. 2002, c. 17, Sched. D, s. 3; 2009, c. 33, Sched. 21, s. 8 (5).

Deemed transmission of petition

(5.2) Despite the *Fluoridation Act*, if a petition under the *Fluoridation Act* is submitted in the election year of a regular election after June 1, the petition is deemed to have been transmitted to the clerk on February 1 of the following year. 2002, c. 17, Sched. D, s. 3; 2009, c. 33, Sched. 21, s. 8 (6).

Notice to electors

(6) The clerk who is responsible for conducting the election shall give the electors notice of by-laws and questions referred to in this section. 1996, c. 32, Sched., s. 8 (6).

Cost of giving notice

(7) The upper-tier municipality or local board or the Minister, as the case may be, shall pay the local municipality's reasonable costs of giving notice under subsection (6), as soon as possible after receiving a certificate verifying the amount and signed by the clerk of the local municipality. 1996, c. 32, Sched., s. 8 (7).

Assent to by-law

(8) A by-law is assented to,

- (a) in the case of a local municipality, if a majority of the votes cast in the municipality are in favour of the by-law;
- (b) in the case of an upper-tier municipality, if a majority of the votes cast in all the local municipalities are in favour of the by-law. 1996, c. 32, Sched., s. 8 (8).

Result of vote

(9) When the time for applying for a recount has expired without an application being made, or when any application for a recount has been finally disposed of, the clerk shall certify the result of the vote in his or her municipality to the clerk of the upper-tier municipality, the secretary of the local board or the Minister, as the case may be. 1996, c. 32, Sched., s. 8 (9).

Waiting period

(10) A council shall not consider a proposed by-law to which the electors' assent has been obtained until the 14th day after the result of the vote is certified. 1996, c. 32, Sched., s. 8 (10).

Conflicts

(11) In cases of conflict, the Act or regulation establishing the wording of a question under clause (1) (c) or the Act authorizing the regulation establishing the wording of the question prevails over this Act or a regulation under this Act. 2000, c. 5, s. 27 (3).

Conditions re: submitting a question

8.1(1) A by-law to submit a question to the electors under clause 8 (1) (b) or (c),

- (a) shall be passed at least 180 days before voting day in the election at which it is intended to submit the question to the electors;
- (b) cannot be amended after the last date referred to in clause (a); and
- (c) despite clause (b), can be repealed on or before nomination day and, if the election does not include an election for an office, on or before the 31st day before voting day. 2000, c. 5, s. 28.

Rules

(2)A question authorized by by-law under clause 8 (1) (b) shall comply with the following rules:

1. It shall concern a matter within the jurisdiction of the municipality.
2. Despite rule 1, it shall not concern a matter which has been prescribed by the Minister as a matter of provincial interest.
3. It shall be clear, concise and neutral.
4. It shall be capable of being answered in the affirmative or the negative and the only permitted answers to the question are “yes” or “no”. 2000, c. 5, s. 28.

Notice of intent

(3)Before passing a by-law under clause 8 (1) (b) or (c), the clerk shall give at least 10 days notice of the intention to pass the by-law to the public and the Minister and hold at least one public meeting to consider the matter. 2000, c. 5, s. 28.

Notice of by-law

(4)Within 15 days after a municipality passes a by-law under clause 8 (1) (b) or (c), the clerk shall give notice of the passage of the by-law to the public and the Minister. 2000, c. 5, s. 28.

Contents

(5)A notice under subsections (3) and (4) shall include,

- (a) the wording of the question;
- (b) in the case of a by-law under clause 8 (1) (b), a clear, concise and neutral description of the consequences of the question if it is approved and the consequences if it is rejected with the special majority under section 8.2, including an estimate of the costs, if any, that the municipality may incur in implementing the results of the question; and
- (c) in the case of a by-law under clause 8 (1) (b), a description of the right to appeal under subsection (6) including, in the case of a notice under subsection (4), the last day for filing a notice of appeal. 2000, c. 5, s. 28.

Appeal

(6)Within 20 days after the clerk gives notice of the passage of a by-law under clause 8 (1) (b), the Minister or any other person or entity may appeal to the Chief Electoral Officer of the Province of Ontario on the grounds the question does not comply with paragraph 3 or 4 of subsection (2) by filing with the clerk a notice of appeal setting out the objections and the reasons in support of the objections. 2000, c. 5, s. 28; 2007, c. 15, s. 40 (1).

Notices to be forwarded

(7)The clerk shall, within 15 days after the last day for filing a notice of appeal under subsection (6), forward any notices of appeal received to the Chief Electoral Officer. 2000, c. 5, s. 28; 2007, c. 15, s. 40 (1).

Other information

(8)The clerk shall provide any other information or material to the Chief Electoral Officer that the Chief Electoral Officer requires in connection with the appeal. 2000, c. 5, s. 28; 2007, c. 15, s. 40 (1).

Hearing

(9)The Chief Electoral Officer or his or her designate shall, within 60 days of receiving notices under subsection (7), hold a hearing and dismiss the appeal or allow the appeal in whole or in part. 2000, c. 5, s. 28; 2007, c. 15, s. 40 (1).

Order

(10)If the Chief Electoral Officer allows the appeal in whole or in part, the Chief Electoral Officer may make an order amending the by-law or directing the municipality to amend the by-law in the manner ordered. 2000, c. 5, s. 28; 2007, c. 15, s. 40 (1).

Non-application

(11)Subsections (1) and (3) to (9) do not apply to anything done pursuant to an order under subsection (10). 2000, c. 5, s. 28.

Results

8.2(1)The results of a question authorized by a by-law under clause 8 (1) (b) are binding on the municipality which passed the by-law if,

- (a) at least 50 per cent of the eligible electors in the municipality vote on the question; and
- (b) more than 50 per cent of the votes on the question are in favour of those results. 2000, c. 5, s. 28.

Determination of number of votes

(2)For the purpose of clause (1) (a), the number of eligible electors shall be determined from the voters' lists as they exist at the close of voting. 2000, c. 5, s. 28.

Implementation

8.3 (1) If the results of a question authorized by a by-law under clause 8 (1) (b) are binding on a municipality,

- (a) if an affirmative answer received the majority of the votes, the municipality shall do everything in its power to implement the results of the question in a timely manner; and
- (b) if a negative answer received the majority of the votes, the municipality shall not do anything within its jurisdiction to implement the matter which was the subject of the question for a period of four years following voting day. 2000, c. 5, s. 28; 2006, c. 9, Sched. H, s. 3 (1).

Same

(2) Without limiting subsection (1), the municipality shall, between 14 and 180 days after voting day,

- (a) if a by-law or resolution is required to implement the results of the question, ensure that it is prepared and placed before council or, if a series of by-laws are required to implement the results, ensure that the first of the series is prepared and placed before council;
- (b) despite clause (a), if passage of a by-law or resolution required to implement the results of the question is subject to a condition precedent under a regulation or statute (such as giving notice or holding a public hearing), ensure the initial steps have been taken to comply with the condition;
- (c) if administrative action to change a policy or practice is required to implement the results of the question, instruct municipal staff to take that action. 2000, c. 5, s. 28.

Limitation

(3) For the purpose of clause (1) (a), it is not within the jurisdiction of the municipality to eliminate or override any substantive or procedural legal right of any person or entity who is or may be affected by the implementation of the results of the question as illustrated by the following examples:

1. If a zoning change under the *Planning Act* is necessary to implement the results, the binding effect of the question is subject to the *Planning Act* and the discretion of the municipality under that Act is not constrained. If the zoning change is approved, the municipality is bound to implement the results; if it is not approved, the municipality is not bound.
2. If the results of the question require the passage of a by-law which requires notice to be given and at least one public meeting to be held to consider the matter before the by-law is passed, the binding effect of the question is subject to these procedural requirements and the discretion of the municipality to proceed following the public meeting is not constrained. If, after the public meeting, the municipality decides not to implement the results of the question, it is not required to do so. 2000, c. 5, s. 28.

Order

(4) A court presiding over a proceeding in respect of a recount, an offence under this Act or a proceeding under section 83 (controverted elections) may make an order temporarily staying the requirement of a municipality to implement the results of a question under this Act if satisfied that the requirement may be directly or indirectly affected by the proceeding. 2000, c. 5, s. 28.

Time restriction

(5) A municipality that has passed a by-law or resolution or taken any other action to implement the results of the question shall not do anything within its jurisdiction to reverse or substantially change the action for a period of four years following the day the action took effect. 2000, c. 5, s. 28; 2006, c. 9, Sched. H, s. 3 (2).

Exception

(6) Nothing in this section requires a municipality to do anything or prevents a municipality from doing anything if,

- (a) a subsequent binding question authorizes such action or inaction; or
- (b) the council is of the opinion, reasonably held, that there has been a material change in circumstances since the time it passed the by-law under clause 8 (1) (b) to put the binding question to the electors. 2000, c. 5, s. 28.

Language of notices and forms

9.(1) Notices, forms and other information provided under this Act shall be made available in English only, unless the council of the municipality has passed a by-law under subsection (2). 1996, c. 32, Sched., s. 9 (1).

By-law

(2) A municipal council may pass a by-law allowing the use of,

- (a) French, in addition to English, in prescribed forms;
- (b) French, other languages other than English, or both, in notices, forms (other than prescribed forms) and other information provided under this Act. 1996, c. 32, Sched., s. 9 (2).

Non-application

(3) This section does not apply with respect to notices, forms and other information provided under this Act in respect of the election of the persons described in clauses 9.1 (1) (a) and (b). 1999, c. 14, Sched. F, s. 6 (2).

Bilingual notices and forms

9.1(1) This section applies with respect to notices, forms and other information provided under this Act in respect of the election of,

- (a) members of a French-language district school board; or
- (b) members of a school authority that,
 - (i) has established, operated or maintained a French-language instructional unit within the year before voting day, or
 - (ii) is subject to an agreement, resolution or order under Part XII of the *Education Act* that requires the school authority to establish, operate or maintain a French-language instructional unit. 1999, c. 14, Sched. F, s. 6 (3).

Language of notices, etc.

(2) Notices, forms and other information provided under this Act with respect to the matters described in subsection (1) shall be made available in English and French and shall not be provided in any other language unless the council of the municipality has passed a by-law under subsection (3). 1999, c. 14, Sched. F, s. 6 (3).

By-law

(3) A municipal council may pass a by-law allowing the use of languages other than English and French in notices, forms (other than prescribed forms) and other information provided under this Act with respect to the matters described in subsection (1). 1999, c. 14, Sched. F, s. 6 (3).

Interpretation

(4) In this section, “French-language district school board”, “French-language instructional unit” and “school authority” have the same meaning as in subsection 1 (1) of the *Education Act*. 1999, c. 14, Sched. F, s. 6 (3).

Saturdays and holidays

10.(1) A time limited by this Act that would otherwise expire on a Saturday or holiday shall be deemed to expire on the next day that is neither a Saturday nor a holiday. 1996, c. 32, Sched., s. 10 (1).

Exception

(2) When voting day is determined under subsection (1), the days fixed for other procedures in the election are unaffected. 1996, c. 32, Sched., s. 10 (2).

ELECTION OFFICIALS**Duties of clerk**

11. (1) The clerk of a local municipality is responsible for conducting elections within that municipality, subject to the following exceptions:

1. The clerks specified in the regulations made under the *Education Act* are responsible for certain aspects of the elections of members of school boards, as set out in those regulations.

2. The clerks specified in section 11.1 are responsible for certain aspects of the election of members of the council of an upper-tier municipality, as provided for in that section.
3. Repealed: 2002, c. 17, Sched. F, Table.
4. The clerks specified in subsection (5) are responsible for certain aspects of the election with respect to a question an upper-tier municipality submits to its electors under clause 8 (1) (b) or (c). 1996, c. 32, Sched., s. 11 (1); 1999, c. 14, Sched. F, s. 6 (4); 2000, c. 5, s. 29 (1); 2002, c. 17, Sched. F, Table.

Same

- (2) Responsibility for conducting an election includes 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 report described in subsection 12.1 (2). 1996, c. 32, Sched., s. 11 (2); 2009, c. 33, Sched. 21, s. 8 (7).

Locality, secretary of school board

(3) The secretary of a school board is responsible for conducting elections of members of the board who are to be elected by the electors of a locality; in that case, this Act applies as if the secretary were the clerk, the school board were the council of a local municipality and the locality were the geographic area of a local municipality. 1996, c. 32, Sched., s. 11 (3).

Police village

(4) If a police village is situated in more than one local municipality, the clerk of each local municipality is responsible for conducting the election within that municipality, subject to the following:

1. Nominations for office on the police village shall be filed with the clerk of the local municipality with the largest number of electors of the police village.
2. As soon as possible after the close of nominations, the clerk with whom they were filed shall provide the clerks of the other local municipalities with a list of certified candidates.
3. The clerk of each local municipality shall certify the results of the election to the clerk with whom nominations were filed.
4. The clerk with whom nominations were filed shall prepare the final summary and announce the election results. 1996, c. 32, Sched., s. 11 (4).

Upper-tier municipality

(5) Where an upper-tier municipality is submitting a question to its electors under clause 8 (1) (b) or (c), the clerk of the upper-tier municipality is responsible for conducting the election on the question except that the clerk of each local municipality which forms part of the upper-tier municipality for municipal purposes is responsible for recording the vote in the local municipality subject to the following:

1. Registration to incur expenses with respect to the question shall be filed with the clerk of the upper-tier municipality.
2. As soon as possible after the close of nominations or, in the case where the election

does not involve an election for an office, no later than 28 days before voting day, the clerk of the upper-tier municipality shall provide the clerks of each of the local municipalities with a list of individuals, corporations or trade unions registered to incur expenses with respect to the question.

3. The clerk of each local municipality shall, subject to subsection 8 (9), certify the results of the election to the clerk of the upper-tier municipality.
4. The clerk of the upper-tier municipality shall prepare the final summary and announce the election results. 2000, c. 5, s. 29 (2).

Special case

11.1 (1) Subject to subsection (2), this section applies to an upper-tier municipality if a member of the council of the upper-tier municipality is to be elected to the council by the electors of all or part of one or more lower-tier municipalities within the upper-tier municipality. 2002, c. 17, Sched. F, Table.

Exception

(2) This section and section 11.2 do not apply if the member mentioned in subsection (1) is to be elected also to the council of a lower-tier municipality within the upper-tier municipality. 2002, c. 17, Sched. F, Table.

Responsibility of upper-tier clerk

(3) Subject to subsection (5), the clerk of the upper-tier municipality is the person responsible for conducting an election for the office of a member mentioned in subsection (1). 2002, c. 17, Sched. F, Table.

Filing of nominations

(4) Nominations for the office shall be filed with the clerk of the upper-tier municipality who shall send the names of the candidates by registered mail within 48 hours after the closing of nominations to the clerk of each lower-tier municipality in which the election is to be held. 2002, c. 17, Sched. F, Table.

Responsibility of lower-tier clerk

(5) The clerk of each lower-tier municipality in which an election is to be held for the office of a member mentioned in subsection (1) is the person responsible for conducting the election in the lower-tier municipality and shall promptly report the vote recorded to the clerk of the upper-tier municipality who shall prepare the final summary and announce the result of the vote. 2002, c. 17, Sched. F, Table.

Regulations

11.2 (1) Despite this Act, the Minister may by regulation provide for those matters which, in the opinion of the Minister, are necessary or expedient to conduct the election of the members of the council of an upper-tier municipality that is mentioned in section 11.1 and the members of the councils of its lower-tier municipalities. 2002, c. 17, Sched. F, Table.

Scope

(2) A regulation under subsection (1) may be general or specific in its application. 2002, c. 17, Sched. F, Table.

Powers of clerk

12. (1) A clerk who is responsible for conducting an election 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. 1996, c. 32, Sched., s. 12 (1).

Forms

(2) The power conferred by subsection (1) includes power to establish forms, including forms of oaths and statutory declarations, and power to require their use. 1996, c. 32, Sched., s. 12 (2).

Proof of identification, qualification, etc.

(3) The power conferred by subsection (1) includes power to require a person, as a condition of doing anything or having an election official do anything under this Act, to furnish proof that is satisfactory to the election official of the person's identity or qualifications, including citizenship or residency, or of any other matter. 1996, c. 32, Sched., s. 12 (3); 2002, c. 17, Sched. D, s. 4.

Electors and candidates with disabilities

12.1 (1) A clerk who is responsible for conducting an election shall have regard to the needs of electors and candidates with disabilities. 2009, c. 33, Sched. 21, s. 8 (8).

Report

(2) Within 90 days after voting day in a regular election, the clerk shall submit a report to council about the identification, removal and prevention of barriers that affect electors and candidates with disabilities. 2009, c. 33, Sched. 21, s. 8 (8).

Notice by clerk

13.(1) Any notice or other information that this Act requires the clerk to give shall be given in a form and manner and at a time that the clerk considers adequate to give reasonable notice or to convey the information, as the case may be. 1996, c. 32, Sched., s. 13 (1).

Information about rights under Act

(2) The clerk shall provide electors, candidates and persons who are eligible to be electors with information to enable them to exercise their rights under this Act. 1996, c. 32, Sched., s. 13 (2).

Original documents

14. A document that is filed with an election official under this Act and that is required to be signed shall bear only original signatures. 1996, c. 32, Sched., s. 14.

Deputy returning officer and other election officials

15.(1) When it is necessary to conduct an election, the clerk shall appoint a deputy returning officer for each voting place established under section 45 and may appoint any other election officials for the election and for any recount that the clerk considers are required. 1996, c. 32, Sched., s. 15 (1).

Delegation

(2) The clerk may delegate to a deputy returning officer or other election official any of the clerk's powers and duties in relation to an election, as he or she considers necessary. 1996, c. 32, Sched., s. 15 (2).

Clerk retains powers and duties

(3) The clerk may continue to exercise the delegated powers and duties, despite the delegation. 1996, c. 32, Sched., s. 15 (3).

Delegation in writing

(4)The delegation shall be in writing. 1996, c. 32, Sched., s. 15 (4).

SCRUTINEERS**Scrutineers at election of candidate**

16.(1)A candidate may appoint scrutineers to represent him or her during voting and at the counting of votes, including a recount. 1996, c. 32, Sched., s. 16 (1).

Same, at vote on by-law or question

(2)A municipality may appoint scrutineers in relation to voting on a by-law or question submitted to the electors, to attend at a voting place and at the counting of votes, including a recount. 1996, c. 32, Sched., s. 16 (2).

Same, question submitted by local board or Minister

(3)When a local board or the Minister has submitted a question to the electors, subsection (2) applies with necessary modifications. 1996, c. 32, Sched., s. 16 (3).

Scrutineers for applicant under s. 58

(4)An elector who applies for a recount under section 58 may appoint scrutineers to represent him or her at the recount. 1996, c. 32, Sched., s. 16 (4).

Manner of appointment

(5)The appointment of a scrutineer shall be in writing if made by a candidate or applicant or by the Minister, and by resolution if made by a municipality or local board. 1996, c. 32, Sched., s. 16 (5).

Proof of appointment

(6)A scrutineer shall, on request, show proof of his or her appointment to the election official in charge of a voting place or of a place where votes are being counted. 1996, c. 32, Sched., s. 16 (6).

VOTERS' LIST**Qualifications of electors**

17. (1) Repealed: 2002, c. 17, Sched. D, s. 5 (1).

Qualifications

(2) A person is entitled to be an elector at an election held in a local municipality if, on voting day, he or she,

- (a) resides in the local municipality or is the owner or tenant of land there, or the spouse of such owner or tenant;
- (b) is a Canadian citizen;
- (c) is at least 18 years old; and
- (d) is not prohibited from voting under subsection (3) or otherwise by law. 2002, c. 17, Sched. D, s. 5 (2); 2005, c. 5, s. 46 (1).

Persons prohibited from voting

(3) The following are prohibited from voting:

1. A person who is serving a sentence of imprisonment in a penal or correctional institution.

2. A corporation.
3. A person acting as executor or trustee or in any other representative capacity, except as a voting proxy in accordance with section 44.
4. A person who was convicted of the corrupt practice described in subsection 90 (3), if voting day in the current election is less than five years after voting day in the election in respect of which he or she was convicted. 1996, c. 32, Sched., s. 17 (3); 2006, c. 9, Sched. H, s. 4.

(4) Repealed: 2002, c. 17, Sched. D, s. 5 (3).

Voting subdivisions

18.(1) On or before each date fixed by the Minister of Finance under section 15 of the *Assessment Act*, the clerk of each local municipality may divide the local municipality into voting subdivisions. 1996, c. 32, Sched., s. 18 (1).

Notice to Municipal Property Assessment Corporation

(2) If the clerk acts under subsection (1) he or she shall, before the fixed date, inform the Municipal Property Assessment Corporation of the boundaries of the voting subdivisions. 1996, c. 32, Sched., s. 18 (2); 2006, c. 33, Sched. Z.3, s. 18 (1).

Preliminary list

19. (1) In the year of a regular election, the Municipal Property Assessment Corporation shall prepare a preliminary list for each local municipality and deliver it to the clerk. 2009, c. 33, Sched. 21, s. 8 (9).

Deadline

- (1.1) The preliminary list must be delivered to the clerk no later than the following date:
1. The date agreed upon by the clerk and the Municipal Property Assessment Corporation, which must be a date earlier than September 1.
 2. If no date is agreed upon, the date prescribed by the Minister.
 3. If no date is agreed upon or prescribed, July 31. 2009, c. 33, Sched. 21, s. 8 (9).

Same

(1.2) For the purposes of subsection (1.1), the Minister may prescribe a date even though July 31 has already passed. 2009, c. 33, Sched. 21, s. 8 (9).

Voting subdivisions

(2) If the local municipality is divided into voting subdivisions, the preliminary list shall contain a preliminary list for each voting subdivision. 1996, c. 32, Sched., s. 19 (2).

Data

- (3) The preliminary list may be based on data from any source, including,
- (a) the most recent enumeration under the *Assessment Act*; and
 - (b) information from the records in the office of the Registrar General regarding the registration of births, deaths and changes of name made under the *Vital Statistics Act* and the *Change of Name Act*. 2009, c. 33, Sched. 21, s. 8 (10).

Authority

(3.1) If the Registrar General and the Municipal Property Assessment Corporation enter into an agreement governing the disclosure of the information described in clause (3) (b) by the

Registrar General to the Corporation and governing the collection, use and disclosure of the information by the Corporation,

- (a) the Registrar General is authorized to disclose the information to the Corporation for the purpose of complying with the agreement; and
- (b) the Corporation is authorized to collect, use and disclose the information in accordance with the agreement. 2009, c. 33, Sched. 21, s. 8 (10).

Same

(3.2) The agreement between the Registrar General and the Municipal Property Assessment Corporation must contain the terms and conditions that the Registrar General considers appropriate with respect to,

- (a) the use that the Corporation may make of the information;
- (b) the protection of the information, including the retention and destruction of the information; and
- (c) measures to verify that the Corporation complies with the agreement. 2009, c. 33, Sched. 21, s. 8 (10).

Same

(3.3) The agreement may provide for the payment of fees. 2009, c. 33, Sched. 21, s. 8 (10).

Same

(3.4) Any disclosure of personal information that is authorized under this section is deemed to comply with clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act* and clause 32 (e) of the *Municipal Freedom of Information and Protection of Privacy Act*. 2009, c. 33, Sched. 21, s. 8 (10).

Contents

- (4) The preliminary list shall contain,
 - (a) the name and address of each person who is entitled to be an elector under section 17; and
 - (b) any additional information the clerk needs to determine for which offices each elector is entitled to vote. 1996, c. 32, Sched., s. 19 (4).

Voting subdivisions, residents and non-residents

- (5) If the local municipality is divided into voting subdivisions,
 - (a) the name of each resident elector shall be entered on the preliminary list for the voting subdivision in which he or she resides; and
 - (b) the name of each non-resident elector shall be entered on the preliminary list for the voting subdivision in which the elector or his or her spouse is an owner or tenant of land. 1996, c. 32, Sched., s. 19 (5); 1999, c. 6, s. 43 (2); 2005, c. 5, s. 46 (2).

One entry only

(6) An elector's name shall appear on the preliminary list for a local municipality only once. 1996, c. 32, Sched., s. 19 (6).

Homeless persons

20. The Municipal Property Assessment Corporation is not required to enter on a preliminary list the name of a person whose residence is determined under subsection 2 (3). 1996,

c. 32, Sched., s. 20; 2006, c. 33, Sched. Z.3, s. 18 (2).

Extracts from preliminary list

21.(1) On or before August 31 in the year of a regular election, the Municipal Property Assessment Corporation shall provide the secretary of every school board with extracts of the preliminary list based on the school support of electors in that election. 1996, c. 32, Sched., s. 21 (1); 2000, c. 25, s. 47; 2001, c. 8, s. 208 (2).

Copies for candidates

(2) Each secretary shall, on request, provide a copy of the extracts to any candidate for an office on the school board concerned. 1996, c. 32, Sched., s. 21 (2).

No revision

(3) The extracts do not constitute official preliminary lists and are not subject to revision. 1996, c. 32, Sched., s. 21 (3).

Correction of errors

22. (1) The clerk may correct any obvious error in the preliminary list and shall notify the Municipal Property Assessment Corporation of the corrections. 1996, c. 32, Sched., s. 22; 2006, c. 33, Sched. Z.3, s. 18 (3).

Same

(2) For the purposes of subsection (1), the clerk may use any information that is in the local municipality's custody or control. 2009, c. 33, Sched. 21, s. 8 (11).

Same

(3) Information in the local municipality's custody or control that is used by the clerk for the purposes of subsection (1) is deemed to have been collected for the purpose of correcting errors in the preliminary list. 2009, c. 33, Sched. 21, s. 8 (11).

Voters' list

23.(1) The preliminary list, as corrected under section 22, constitutes the voters' list. 1996, c. 32, Sched., s. 23 (1).

Reproduction, revision arrangements

(2) On or before September 1 in the year of a regular election, the clerk shall,

- (a) have the voters' list reproduced; and
- (b) determine where and at what time applications for revisions to the voters' list may be made under sections 24 and 25. 1996, c. 32, Sched., s. 23 (2).

Copies for local boards, municipalities, Minister

(3) On written request, the clerk shall provide a copy of the voters' list to,

- (a) the secretary of a local board any of whose members are required to be elected at an election conducted by the clerk, or that has submitted a question to the electors;
- (b) the clerk of the local municipality responsible for conducting the elections in any combined area for school board purposes;
- (c) the clerk of an upper-tier municipality any of whose members are required to be elected at an election conducted by the clerk, or that has submitted a by-law or question to the electors;
- (d) the Minister, if he or she has submitted a question to the electors; and

- (e) an individual, corporation or trade union that is registered under section 39.1. 1996, c. 32, Sched., s. 23 (3); 2009, c. 33, Sched. 21, s. 8 (12).

Copies for candidates

(4) On the written request of a candidate for an office, the clerk shall provide him or her with the part of the voters' list that contains the names of the electors who are entitled to vote for that office. 1996, c. 32, Sched., s. 23 (4).

Copies for M.P.'s and M.P.P.'s

(5) On the written request of a member of the House of Commons or of the Assembly who represents any part of the clerk's municipality, the clerk shall provide him or her with a copy of the voters' list. 1996, c. 32, Sched., s. 23 (5).

Application for change re own name

24. (1) During the period that begins on the Tuesday after Labour Day and ends at the close of voting on voting day, a person may make an application to the clerk requesting,

- (a) that the person's name be added to or removed from the voters' list; or
- (b) that information on the voters' list relating to the person be amended. 1996, c. 32, Sched., s. 24 (1).

Form and manner of application

(2) The application shall be in writing and shall be filed,

- (a) in person, by the applicant or his or her agent; or
- (b) by mail, by the applicant. 1996, c. 32, Sched., s. 24 (2).

Application approved

(3) If satisfied that the applicant is entitled to have the requested change made, the clerk shall,

- (a) endorse the application to indicate approval; and
- (b) return the endorsed application to the applicant or notify the applicant that the application has been approved and the voters' list will be changed to reflect the approved application. 1996, c. 32, Sched., s. 24 (3); 2002, c. 17, Sched. D, s. 6.

Application refused

(4) If not satisfied that the applicant is entitled to have the requested change made, the clerk shall,

- (a) note the reason for refusal on the application; and
- (b) return the annotated application to the applicant. 1996, c. 32, Sched., s. 24 (4).

Application for removal of another's name

25.(1) During the period that begins on the Tuesday after Labour Day and ends on nomination day, a person may make an application to the clerk requesting that another person's name be removed from the voters' list. 1996, c. 32, Sched., s. 25 (1).

Form and manner of application

(2) The application shall be in writing and shall be filed,

- (a) in person, by the applicant or his or her agent; or
- (b) by mail, by the applicant. 1996, c. 32, Sched., s. 25 (2).

Copy to be provided

(2.1) The clerk shall give the person to whom the application relates a copy of the application. 2002, c. 17, Sched. D, s. 7 (1).

Procedure

(3) Upon the request of the person to whom the application relates, the clerk shall,

- (a) appoint a time and place for a hearing to decide whether the person's name should be removed from the voters' list;
- (b) give the applicant and the person to whom the application relates a notice informing them of the time and place of the hearing and of the fact that they may appear personally or by a representative; and
- (c) Repealed: 2002, c. 17, Sched. D, s. 7 (3).
- (d) hold the hearing at the appointed time and place. 1996, c. 32, Sched., s. 25 (3); 2002, c. 17, Sched. D, s. 7 (2, 3).

Exception, person deceased

(4) If satisfied that the person to whom the application relates has died, the clerk may remove the person's name from the voter's list without a hearing. 1996, c. 32, Sched., s. 25 (4).

Non-appearance of applicant

(5) If the applicant does not appear, personally or by a representative, the clerk shall dismiss the application. 1996, c. 32, Sched., s. 25 (5).

Non-appearance of other person

(6) If the person to whom the application relates does not appear, personally or by a representative, the clerk may hold the hearing and make a decision only if he or she is satisfied that the person,

- (a) received notice of the hearing; or
- (b) could not be found to be given notice. 1996, c. 32, Sched., s. 25 (6).

Application approved

(7) If satisfied that the name should be removed from the voters' list, the clerk shall,

- (a) endorse the application to indicate approval and note the reasons for the approval on the application;
- (b) return the endorsed and annotated application to the applicant; and
- (c) send the person to whom the application relates a copy of the endorsed and annotated application, together with notice of the procedure under section 24 to add a name to the voters' list. 1996, c. 32, Sched., s. 25 (7); 2002, c. 17, Sched. D, s. 7 (4).

Application refused

(8) If not satisfied that the name should be removed from the voters' list, the clerk shall,

- (a) note the refusal and the reasons for it on the application;
- (b) return the annotated application to the applicant; and
- (c) send the person to whom the application relates a copy of the annotated application. 1996, c. 32, Sched., s. 25 (8); 2002, c. 17, Sched. D, s. 7 (5).

Determination after hearing

(8.1) If a hearing is held under this section with respect to an application, the clerk shall not make a determination under subsection (7) or (8) on the application until after the hearing. 2002, c. 17, Sched. D, s. 7 (6).

Exception

(9) The clerk is not required to give copies and notice under clause (7) (c) or (8) (c) if satisfied that the person cannot be found. 1996, c. 32, Sched., s. 25 (9).

Clerk's decision final

26. The clerk's decision under section 24 or 25 is final. 1996, c. 32, Sched., s. 26.

Interim list of changes

27.(1) Within 10 days after nomination day, the clerk shall,

- (a) prepare an interim list of the changes to the voters' list approved under sections 24 and 25 on or before nomination day; and
- (b) give a copy of the interim list to each person who received a copy of the voters' list under section 23 and to each certified candidate. 1996, c. 32, Sched., s. 27 (1).

Final list of changes

(2) Within the time after voting day fixed by the Minister of Finance under the *Assessment Act*, the clerk shall,

- (a) prepare a final list of the changes to the voters' list approved under sections 24 and 25; and
- (b) give a certified copy of the final list of changes to the Municipal Property Assessment Corporation together with a copy of the approved applications under sections 24 and 25. 1996, c. 32, Sched., s. 27 (2); 2006, c. 33, Sched. Z.3, s. 18 (4).

Voters' list

28.(1) The clerk shall prepare and certify the voters' list for use in each voting place established under section 45. 1996, c. 32, Sched., s. 28 (1).

Same

(2) In preparing the voters' list, the clerk,

- (a) shall determine which electors appear on the voters' list for each voting place;
- (b) shall remove the names that are shown in the interim list of changes as names to be removed; and
- (c) may make any other changes approved under section 24. 1996, c. 32, Sched., s. 28 (2).

CANDIDATES

Who may be nominated

29. (1) A person may be nominated for an office only if, as of the day the person is nominated,

- (a) he or she is qualified to hold that office under the Act that creates it; and
- (b) he or she is not ineligible under this or any other Act or otherwise prohibited by law to be nominated for or to hold the office. 1996, c. 32, Sched., s. 29 (1); 2002, c. 17, Sched. D, s. 8 (1).

Certain persons eligible to be nominated

(1.1) Despite subsection (1) and despite section 258 of the *Municipal Act, 2001*, section 203 of the *City of Toronto Act, 2006*, section 9 of the *Legislative Assembly Act* and section 219 of the *Education Act*, a member of the Legislative Assembly of Ontario or the Senate or House of Commons of Canada is not ineligible to be nominated for an office in an election by virtue of being a member of any of those bodies but, if the person is a member of any of those bodies as of the close of nominations on nomination day of the election, the nomination shall be rejected by the clerk under section 35. 2002, c. 17, Sched. D, s. 8 (2); 2006, c. 32, Sched. C, s. 34 (1).

Exclusion

(1.2) Subsection (1.1) does not apply to a member of the Executive Council of Ontario or a federal Minister of the Crown. 2002, c. 17, Sched. D, s. 8 (2).

Nomination for one office only

(2) If a person who has been nominated for an office is nominated for another office to which this Act applies, the first nomination shall be deemed to have been withdrawn at the time the second nomination is filed. 1996, c. 32, Sched., s. 29 (2).

Name on ballot for more than one office

(2.1) Despite the fact that the first nomination is deemed withdrawn under subsection (2), if a person's name appears on the ballots for more than one office to which this Act applies, section 261 of the *Municipal Act, 2001* or section 206 of the *City of Toronto Act, 2006*, as the case may be, applies. 2002, c. 17, Sched. D, s. 8 (3); 2006, c. 32, Sched. C, s. 34 (2).

Separate nomination for each person

(3) Each person to be nominated for election to an office shall be nominated by a separate nomination. 1996, c. 32, Sched., s. 29 (3).

Employee of municipality or local board

30. (1) An employee of a municipality or local board is eligible to be a candidate for and to be elected as a member of the council or local board that is the employer if he or she takes an unpaid leave of absence beginning as of the day the employee is nominated and ending on voting day. 1996, c. 32, Sched., s. 30 (1); 2002, c. 17, Sched. D, s. 9 (1).

Notice of leave

(2) The employee shall give the council or local board written notice, in advance, of his or her intention to take unpaid leave under subsection (1). 1996, c. 32, Sched., s. 30 (2).

Right to unpaid leave

(3) The employee is entitled, as of right, to take unpaid leave under subsection (1). 2002, c. 17, Sched. D, s. 9 (2).

Vacation and overtime pay

(3.1) Despite subsection (1), an employee of a municipality or local board is entitled to be paid out any vacation pay or overtime pay owing to the employee during the period of the unpaid leave of absence and the fact that these payments may be paid on a weekly or other regular basis does not affect the unpaid leave status of the employee. 2002, c. 17, Sched. D, s. 9 (3).

Resignation

(4) If the employee is elected to the office, he or she shall be deemed to have resigned from the employment immediately before making the declaration of office referred to in subsection 232 (1) of the *Municipal Act, 2001*, section 186 of the *City of Toronto Act, 2006* or section 209 of the *Education Act*, as the case may be. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 34 (3).

Same

(5) Subsection (4) also applies to an employee of a municipality or local board who by being elected to the council of another municipality or to another local board also becomes a member of the council or local board that is the employer. 1996, c. 32, Sched., s. 30 (5).

Continuous service

(6) If an employee who takes a leave of absence under subsection (1) is not elected, the leave shall not be counted in determining the length of his or her service for any purpose, and the service before and after the leave shall be deemed to be continuous for all purposes. 1996, c. 32, Sched., s. 30 (6).

Volunteer firefighters

(7) A person shall not be considered an employee of a municipality or local board for the purposes of this section by reason only of being a volunteer firefighter as defined in the *Fire Protection and Prevention Act, 1997*. 1996, c. 32, Sched., s. 30 (7); 2009, c. 33, Sched. 21, s. 8 (13).

Non-employees

(8) This section applies with necessary modifications to a person who is not an employee and who is described in subparagraph 1 ii or iii of subsection 258 (1) of the *Municipal Act, 2001* or subparagraph 1 ii or iii of subsection 203 (1) of the *City of Toronto Act, 2006*, as the case may be. 2006, c. 32, Sched. C, s. 34 (4).

Nomination day

31. Nomination day for a regular election is the second Friday in September in the year of the election. 2002, c. 17, Sched. D, s. 10; 2009, c. 33, Sched. 21, s. 8 (14).

Notice

32. The clerk shall give notice of the offices for which persons may be nominated and of the nomination procedure under this Act. 1996, c. 32, Sched., s. 32.

Filing of nomination

33. (1) A person may be nominated for an office by filing a nomination in the clerk's office, in person or by an agent. 1996, c. 32, Sched., s. 33 (1).

Formal requirements

(2) The nomination shall,

- (a) be in the prescribed form;
- (b) be accompanied by a declaration of qualification in the prescribed form, signed by the person being nominated; and
- (c) be accompanied by the prescribed nomination filing fee. 1996, c. 32, Sched., s. 33 (2); 2002, c. 17, Sched. D, s. 11.

Exception, nomination filing fee

(3) If the person was previously nominated for an office on the same council or local board in the same election and paid the nomination filing fee at that time,

- (a) clause (2) (c) does not apply; and
- (b) for the purposes of section 34 (refund) and paragraph 9 of subsection 67 (2) (expenses), the fee paid at the time of the earlier nomination shall be deemed to have been paid in connection with the later one. 1996, c. 32, Sched., s. 33 (3).

Time for filing

(4) The nomination may be filed,

- (a) on any day in the year of the regular election that is before nomination day, at a time when the clerk's office is open; or
- (b) on nomination day, between 9 a.m. and 2 p.m. 1996, c. 32, Sched., s. 33 (4); 2009, c. 33, Sched. 21, s. 8 (15).

Exception for additional nominations

(5) If the number of nominations filed for an office and certified under section 35 is less than the number of persons to be elected to the office, additional nominations may be filed between 9 a.m. and 2 p.m. on the Wednesday following nomination day. 1996, c. 32, Sched., s. 33 (5); 2009, c. 33, Sched. 21, s. 8 (16).

Certificate of permitted amount of expenses, as of filing of nomination

33.0.1 (1) Upon the filing of a person's nomination, the clerk shall calculate the applicable maximum amount of the person's expenses for the purposes of subsection 76 (4), as of the filing date, using the number of electors referred to in clause 76 (6) (a), and shall give the person, or the agent filing the nomination for the person, a certificate of the applicable maximum amount as of the filing date. 2009, c. 33, Sched. 21, s. 8 (17).

Calculation final

(2) The clerk's calculation is final. 2009, c. 33, Sched. 21, s. 8 (17).

Notice of penalties

33.1 The clerk shall, before voting day, give to each person nominated for an office notice of the penalties under subsections 80 (2) and 92 (5) related to election campaign finances. 2002, c. 17, Sched. D, s. 12.

Refund

34.A candidate is entitled to receive a refund of the nomination filing fee if he or she,

- (a) withdraws the nomination under section 36;
- (b) is elected to the office; or
- (c) receives more than the prescribed percentage of the votes cast in the election for the office. 1996, c. 32, Sched., s. 34.

Examination of nominations

35.(1)The clerk shall examine each nomination that has been filed, in accordance with the following timetable:

1. All nominations filed on or before nomination day shall be examined before 4 p.m. on the Monday following nomination day.
2. Any additional nominations filed under subsection 33 (5) shall be examined before 4 p.m. on the Thursday following nomination day. 1996, c. 32, Sched., s. 35 (1).

Certification

(2)If satisfied that a person is qualified to be nominated and that the nomination complies with this Act, the clerk shall certify the nomination by signing the nomination paper. 1996, c. 32, Sched., s. 35 (2).

Rejection

(3) If not satisfied that a person is qualified to be nominated or that the nomination complies with this Act, the clerk shall reject the nomination. 1996, c. 32, Sched., s. 35 (3).

Notice

(4) When the clerk rejects a nomination, he or she shall, as soon as possible, give notice of the fact to the person who sought to be nominated and to all candidates for the office. 1996, c. 32, Sched., s. 35 (4).

Clerk's decision final

(5) The clerk's decision to certify or reject a nomination is final. 1996, c. 32, Sched., s. 35 (5).

Withdrawal of nominations

36. A person may withdraw his or her nomination by filing a written withdrawal in the clerk's office,

- (a) before 2 p.m. on nomination day, if the person was nominated under subsection 33 (4);
- (b) before 2 p.m. on the Wednesday following nomination day, if the person was nominated under subsection 33 (5). 2009, c. 33, Sched. 21, s. 8 (18).

Acclamations

37. (1) If, at 4 p.m. on the Monday following nomination day, the number of certified candidates for an office is the same as or less than the number to be elected, the clerk shall immediately declare the candidate or candidates elected by acclamation. 1996, c. 32, Sched., s. 37 (1); 2009, c. 33, Sched. 21, s. 8 (19).

Same, after additional nominations

(2) If additional nominations have been filed under subsection 33 (5) and if, at 4 p.m. on the Thursday following nomination day, the number of certified candidates still does not exceed the remaining number of vacancies, the clerk shall immediately declare the additional candidate or candidates elected by acclamation. 1996, c. 32, Sched., s. 37 (2); 2009, c. 33, Sched. 21, s. 8 (20).

Filling vacancies, school boards

(3) If an office remains vacant on a school board after the declaration of the election of candidates by acclamation under this section and the declaration of the election of candidates following the conduct of the election for offices on the board, the following rules apply:

1. If the number of candidates declared elected is insufficient to fill the majority of positions on the board, a by-election shall be held.
2. If the number of candidates declared elected is sufficient to fill the majority of positions on the board, section 38 applies. If it is not possible to fill the vacancies under that section, a by-election shall be held. 1996, c. 32, Sched., s. 37 (3); 1997, c. 31, s. 157 (3-5); 2002, c. 17, Sched. D, s. 13 (1).

By-election restricted to geographic area

(3.1) A by-election required under subsection (3) shall be held only in the geographic area in which the number of candidates declared elected is insufficient. 2002, c. 18, Sched. G, s. 13.

Filling vacancies, other offices

(4) If an office remains vacant on any other body after the declaration of the election of candidates by acclamation under this section and the declaration of the election of candidates

following the conduct of the election for offices on the body, the following rules apply:

1. If the number of candidates declared elected is insufficient to form a quorum, a by-election shall be held.
2. If the number of candidates declared elected is sufficient to form a quorum, clause 263 (1) (a) of the *Municipal Act, 2001* or clause 208 (1) (a) of the *City of Toronto Act, 2006*, as the case may be, applies. 1996, c. 32, Sched., s. 37 (4); 2002, c. 17, Sched. D, s. 13 (2); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 34 (5).

Appointment to fill vacancy on school board

38. (1) If this section applies, the candidates declared elected to the school board may appoint a person to fill the vacancy at a meeting of the members called for that purpose. 2002, c. 18, Sched. G, s. 14 (1).

Criteria

- (2)** A person shall be appointed under subsection (1) only if he or she,
- (a) is qualified to be elected as a member of the school board; and
 - (b) has consented to accept the office if appointed. 1996, c. 32, Sched., s. 38 (2); 2002, c. 18, Sched. G, s. 14 (2).

Vote

(3) If more than one person is nominated to fill a vacancy, the secretary of the school board shall take a vote to determine which person shall fill it. 1996, c. 32, Sched., s. 38 (3).

Who fills vacancy

(4) A person who receives more than half the votes shall fill the vacancy. 1996, c. 32, Sched., s. 38 (4).

Further vote

(5) If no person receives more than half the votes, the secretary shall take another vote, excluding the person who received fewest votes in the previous vote; if two or more persons received fewest votes, the secretary shall choose the person to be excluded by lot. 1996, c. 32, Sched., s. 38 (5).

Death or ineligibility of candidate

39. If a certified candidate for an office, before the close of voting on voting day, dies or becomes ineligible to hold the office,

- (a) if no candidate would be elected by acclamation as a result of the death or ineligibility,
 - (i) the election shall proceed as if the candidate had not been nominated, and
 - (ii) the clerk shall omit the candidate's name from the ballots or, if they have already been printed, shall cause notice of the candidate's death or ineligibility to be posted in every voting place;
- (b) if another candidate would be elected by acclamation as a result of the death or ineligibility, the election is void and a by-election shall be held to fill the office. 2009, c. 33, Sched. 21, s. 8 (21).

REGISTRATION FOR MUNICIPAL QUESTION

Notice of registration

39.1(1) An individual, corporation or trade union described in paragraphs 1 to 3 of

subsection 70 (3) that proposes to incur expenses with respect to a question under clause 8 (1) (b) or (c) shall, in person or by an agent, file with the clerk of the municipality responsible for conducting the election with respect to the question a notice of registration in the prescribed form which shall include a declaration of qualification signed by the individual, corporation or trade union, as the case may be. 2000, c. 5, s. 31.

Timing of registration

(2) An individual, corporation or trade union that files a notice of registration is registered on the date of the filing. 2000, c. 5, s. 31.

Restriction

(3) Municipalities and the other bodies described in subsection 70 (4) cannot be registered under this section. 2000, c. 5, s. 31.

Timing

(4) A registration shall not be filed earlier than the day the by-law to submit the question to the electors is passed and not later than nomination day and if the election does not involve an election for an office, not later than 31 days before voting day. 2000, c. 5, s. 31.

Certification

(5) The clerk shall, as soon as possible, examine each notice of registration that has been filed and,

- (a) if satisfied that an individual, corporation or trade union is qualified to be registered and that the notice of registration complies with this Act, certify the notice of registration by signing it; or
- (b) if not satisfied that an individual, corporation or trade union is qualified to be registered or that the notice of registration complies with this Act, reject the notice of registration. 2000, c. 5, s. 31.

Notice of rejection

(6) If the clerk rejects a notice of registration, the clerk shall, as soon as possible, give notice of the fact to the individual, corporation or trade union. 2000, c. 5, s. 31.

Decision final

(7) The clerk's decision to certify or reject a notice of registration is final. 2000, c. 5, s. 31.

Expenses

(8) Nothing in this Act prevents a municipality or the clerk of a municipality from incurring expenses in respect of the question which are required or authorized to be incurred by this Act. 2000, c. 5, s. 31.

BEFORE VOTING DAY**Notice of election information**

40. When an election is to be held, the clerk shall give the electors notice of,

- (a) the location of the voting places;
- (b) the dates and times on which the voting places will be open for voting;
- (c) if section 44 (voting proxies) applies, the manner in which electors may use voting proxies; and
- (d) if a by-law has been passed under clause 42 (1) (b), (alternative voting methods), the

manner in which electors may use the alternative voting method. 1996, c. 32, Sched., s. 40.

Ballots

41.(1) When an election is to be held, the clerk shall provide ballots in the prescribed form. 1996, c. 32, Sched., s. 41 (1).

Rules for ballots

(2) The following rules apply to ballots:

1. Only the names of certified candidates shall appear on the ballot.
2. The candidates' names shall appear on the ballot in alphabetical order, based on their surnames and, in the case of identical surnames, their forenames.
3. If the candidate wishes and the clerk agrees, another name that the candidate also uses may appear on the ballot instead of or in addition to his or her legal name.
4. No reference to a candidate's occupation, degree, title, honour or decoration shall appear on the ballot.
5. If the surnames of two or more candidates for an office are identical or, in the clerk's opinion, so similar as to cause possible confusion, every candidate's qualifying address shall appear under his or her name.
6. A space for marking the ballot shall appear to the right of each candidate's name or, in the case of a by-law or question, to the right of each answer.
7. All ballots for the same office or relating to the same by-law or question shall be identical or as nearly alike as possible. 1996, c. 32, Sched., s. 41 (2).

Variations for electors with visual impairments

(3) The clerk shall make such changes to some or all of the ballots as he or she considers necessary or desirable to allow electors with visual impairments to vote without the assistance referred to in paragraph 4 of subsection 52 (1). 1996, c. 32, Sched., s. 41 (3); 2001, c. 32, s. 30 (1).

Determination by clerk

(4) The clerk shall determine whether separate or composite ballots shall be used in the election. 1996, c. 32, Sched., s. 41 (4).

Separate and composite ballots

(5) A separate ballot is designed to be used for only one office, by-law or question, as the case may be; a composite ballot is one that combines the contents of two or more separate ballots. 1996, c. 32, Sched., s. 41 (5).

Form of composite ballot

(6) The form of a composite ballot shall conform as closely as possible to the prescribed form and to the rules set out in subsection (2). 1996, c. 32, Sched., s. 41 (6).

By-laws re voting and vote-counting equipment, alternative voting methods

42. (1) The council of a local municipality may pass by-laws,

- (a) authorizing the use of voting and vote-counting equipment such as voting machines, voting recorders or optical scanning vote tabulators;
- (b) authorizing electors to use an alternative voting method, such as voting by mail or by telephone, that does not require electors to attend at a voting place in order to vote.

1996, c. 32, Sched., s. 42 (1).

Application of by-law

(2) A by-law passed under subsection (1) or under a predecessor of it,

- (a) applies to a regular election if the by-law is passed on or before June 1 in the year of the election; and
- (b) applies to a by-election if the by-law is passed more than 60 days before voting day. 2009, c. 33, Sched. 21, s. 8 (22).

Procedures and forms

(3) The clerk shall,

- (a) establish procedures and forms for the use of,
 - (i) any voting and vote-counting equipment authorized by by-law, and
 - (ii) any alternative voting method authorized by by-law; and
- (b) provide a copy of the procedures and forms to each candidate. 2009, c. 33, Sched. 21, s. 8 (22).

Same

(4) The following rules apply with respect to the clerk's duties under subsection (3):

1. The clerk shall comply with subsection (3),
 - i. in the case of a regular election, on or before June 1, and
 - ii. in the case of a by-election, at least 60 days before the first day on which an elector can vote.
2. The procedures and forms, if they are consistent with the principles of this Act, prevail over anything in this Act and the regulations made under it.
3. Without limiting the generality of clause (3) (a), procedures for the use of vote-counting equipment may provide that,
 - i. at the time when and in the place where the votes are being counted, there shall be no more than one scrutineer for each certified candidate for each piece of vote-counting equipment, and
 - ii. at a recount, the persons referred to in subsection 61 (5) are not entitled to examine each ballot as the votes are being counted by the clerk. 2009, c. 33, Sched. 21, s. 8 (22).

Effect of by-law on advance votes and voting proxies

(5) When a by-law authorizing the use of an alternative voting method is in effect, sections 43 (advance votes) and 44 (voting proxies) apply only if the by-law so specifies; if the by-law specifies that section 44 applies, it may also establish additional criteria that a person must meet to be entitled to vote by proxy. 1996, c. 32, Sched., s. 42 (5).

By-law re advance votes

43.(1) At least 30 days before voting day, the council of a local municipality shall pass a by-law establishing,

- (a) one or more dates for an advance vote; and

- (b) the hours during which voting places shall be open on that date or dates. 1996, c. 32, Sched., s. 43 (1).

Same

(2) The by-law may establish different hours for different voting places. 1996, c. 32, Sched., s. 43 (2).

Duty of clerk

(3) The clerk shall hold the advance vote in accordance with the by-law. 1996, c. 32, Sched., s. 43 (3).

Voting places, hours of voting

(4) Section 45, except subsection (7), applies to the advance vote with necessary modifications. 1996, c. 32, Sched., s. 43 (4).

Sealing of ballot box, etc.

(5) On each day of the advance vote the deputy returning officer of the voting place shall,

- (a) immediately after the close of voting, seal the ballot box so that ballots cannot be deposited in or withdrawn from it without breaking the seal; and
- (b) as soon as possible after the close of voting,
 - (i) prepare a list showing the name of each person who has voted on that day and identifying his or her voting place, and
 - (ii) deliver to the clerk for safekeeping the ballot box, the list of names, and all other materials and documents related to the advance vote. 1996, c. 32, Sched., s. 43 (5).

Access to list of advance voters

(6) The clerk shall, on the request of a scrutineer or certified candidate, give him or her a copy of any list referred to in subclause (5) (b) (i). 1996, c. 32, Sched., s. 43 (6).

Updating of voters' lists

(7) The clerk shall ensure that that voters' lists for all voting places are updated to reflect voting that took place at an advance vote. 1996, c. 32, Sched., s. 43 (7).

Appointment of voting proxy

44. (1) A person who is entitled to be an elector in a local municipality may appoint another person who is also so entitled as his or her voting proxy, using the prescribed form. 1996, c. 32, Sched., s. 44 (1).

Restrictions

- (2) A person shall not,
 - (a) appoint more than one voting proxy;
 - (b) act as a voting proxy for more than one other person. 1996, c. 32, Sched., s. 44 (2).

Spouses, etc.

(3) The restriction in clause (2) (b) does not apply if the proxy and the other person are spouses or siblings of each other, parent and child, or grandparent and grandchild. 1996, c. 32, Sched., s. 44 (3); 1999, c. 6, s. 43 (3); 2005, c. 5, s. 46 (3).

Timing

(4) A person shall not appoint a voting proxy for an election until the time for the

withdrawal of nominations has expired for all offices for which the election is being conducted and the appointment does not remain in effect after voting day of the election. 2002, c. 17, Sched. D, s. 15 (1).

Application for clerk's certificate

(5) A person who has been appointed a voting proxy shall,

- (a) complete an application in the prescribed form, including a statutory declaration that he or she is the person appointed as a voting proxy; and
- (b) present the application and the appointing document to the clerk at the clerk's office, or any place designated by the clerk, in person. 1996, c. 32, Sched., s. 44 (5); 2002, c. 17, Sched. D, s. 15 (2).

Time and place

(6) The application may be presented at any time when the clerk's office or other place designated by the clerk is open; on the day of an advance vote held under section 43, the clerk's office and any other place designated by the clerk shall be open for this purpose from noon to 5 p.m. 2002, c. 17, Sched. D, s. 15 (3).

Certificate

(7) If satisfied, after considering the application, that the person who appointed the voting proxy is entitled to do so and that the person appointed is entitled to act as the other's voting proxy, the clerk shall apply a certificate in the prescribed form to the appointing document. 1996, c. 32, Sched., s. 44 (7).

Production of certified appointing document

(8) A person may vote as a voting proxy only if he or she,

- (a) produces to the deputy returning officer the appointing document with the clerk's certificate; and
- (b) takes the prescribed oath. 1996, c. 32, Sched., s. 44 (8).

Voting in own right

(9) A person who votes as a voting proxy is also entitled to vote in his or her own right. 1996, c. 32, Sched., s. 44 (9).

Number and location of voting places

45. (1) The clerk shall establish the number and location of voting places for an election as he or she considers most convenient for the electors. 1996, c. 32, Sched., s. 45 (1).

Accessibility

(2) In establishing the locations of voting places, the clerk shall ensure that each voting place is accessible to electors with disabilities. 2009, c. 33, Sched. 21, s. 8 (23).

Outside voting subdivision or municipality

(3) A voting place may be located outside its voting subdivision and outside its local municipality. 1996, c. 32, Sched., s. 45 (3).

Voting places in certain buildings

(4) A person or body to whom this subsection applies shall on the clerk's request, made at least 14 days before voting day, provide a space for use as a voting place, free of any charge related to the provision of space. 1996, c. 32, Sched., s. 45 (4); 2002, c. 17, Sched. D, s. 16 (1).

Same

(5) The space provided shall be acceptable to the clerk and shall not be a space that is being used as a dwelling. 1996, c. 32, Sched., s. 45 (5).

Application of subss. (4) and (5)

(6) Subsections (4) and (5) apply to:

1. Landlords of buildings containing 100 or more dwelling units.
 - 1.1 Condominium corporations managing buildings containing 100 or more dwelling units.
2. Municipalities.
3. School boards.
4. Provincially-funded institutions. 1996, c. 32, Sched., s. 45 (6); 2002, c. 17, Sched. D, s. 16 (2).

Voting places in institutions, retirement homes

(7) On voting day, a voting place shall be provided on the premises of the following:

1. An institution for the reception, treatment or vocational training of members or former members of the Canadian Forces.
2. An institution in which, on nomination day, 20 or more beds are occupied by persons who are disabled, chronically ill or infirm.
3. A retirement home in which, on nomination day, 50 or more beds are occupied. 1996, c. 32, Sched., s. 45 (7).

Attendance on resident

(8) The deputy returning officer for a voting place described in subsection (7) may attend on an elector who is a resident of the institution or retirement home, to allow him or her to vote. 1996, c. 32, Sched., s. 45 (8).

Attendance on electors with disabilities

(9) To allow an elector with a disability to vote, a deputy returning officer shall attend on the elector anywhere within the area designated as the voting place. 2001, c. 32, s. 30 (3).

Other persons

(10) The other persons described in subsection 47 (1) are entitled to accompany a deputy returning officer when he or she attends on an elector under subsection (8) or (9). 1996, c. 32, Sched., s. 45 (10).

VOTING PROCEDURE

Hours of voting, location

46.(1) On voting day, voting places shall be open for the electors to vote from 10 a.m. until 8 p.m. 1996, c. 32, Sched., s. 46 (1).

By-law re earlier opening

(2) The council of a local municipality may pass a by-law providing that specified voting places shall be open on voting day at a specified time before 10 a.m. 1996, c. 32, Sched., s. 46 (2).

By-law re institutions, retirement homes

(3) Despite subsection (1), the council of a local municipality may pass a by-law with

respect to a voting place described in subsection 45 (7) that is only for the use of residents of the institution or retirement home, providing for reduced opening hours. 1996, c. 32, Sched., s. 46 (3).

Elector in voting place at closing time

(4) An elector who is in a voting place at the time for closing under subsection (1) or under a by-law passed under subsection (3) and has not yet voted is still entitled to vote. 1996, c. 32, Sched., s. 46 (4).

Who may remain in voting place

47. (1) No person shall remain in a voting place when the vote is being taken or the votes are being counted except,

- (a) the clerk and the deputy returning officer and any other election official appointed for the voting place;
- (b) a certified candidate, other than a candidate who has been declared to be elected by acclamation;
- (c) one scrutineer appointed by each person described in clause (b) for each ballot box in use at the voting place;
- (d) the scrutineers appointed by a municipality in relation to a by-law or question; and
- (e) the scrutineers appointed by a local board or the Minister in relation to a question. 1996, c. 32, Sched., s. 47 (1); 2002, c. 17, Sched. D, s. 17.

Same

(2) The number of scrutineers who may be present under clause (1) (c) is reduced by one while the candidate who appointed them is present in the voting place. 1996, c. 32, Sched., s. 47 (2).

Number of scrutineers re by-law

(3) If the vote is on a by-law and scrutineers are to be appointed under subsection 16 (2),

- (a) equal numbers of scrutineers shall be appointed to represent supporters and opponents of the by-law; and
- (b) one scrutineer representing supporters and one representing opponents may be present for each ballot box in use at the voting place. 1996, c. 32, Sched., s. 47 (3).

Number of scrutineers re question

(4) If the vote is on a question and scrutineers are to be appointed under subsections 16 (2) and (3),

- (a) equal numbers of scrutineers shall be appointed for each possible answer to the question; and
- (b) one scrutineer for each of the possible answers may be present for each ballot box in use at the voting place. 1996, c. 32, Sched., s. 47 (4).

Rights of candidates and scrutineers

(5) The persons described in clauses (1) (b), (c), (d) and (e) are each entitled,

- (a) to be present when materials and documents related to the election are delivered to the clerk under subclause 43 (5) (b) (ii) and clause 55 (1) (d);

- (b) to enter the voting place 15 minutes before it opens and to inspect the ballot boxes and the ballots and all other papers, forms and documents relating to the vote (but not so as to delay the timely opening of the voting place);
- (c) to place his or her own seal on the ballot box, immediately before the opening of the voting place, so that ballots can be deposited in the box and cannot be withdrawn without breaking the seal;
- (d) to place his or her own seal on the ballot box immediately after the close of voting on each day of an advance vote under section 43, so that ballots cannot be deposited or withdrawn without breaking the seal;
- (e) to examine each ballot as the votes are being counted by the deputy returning officer under section 54 (but not to touch the ballot);
- (f) to object to a ballot or to the counting of votes in a ballot under subsection 54 (3);
- (g) to sign the statement of the results of the election prepared by the deputy returning officer under clause 55 (1) (a); and
- (h) to place his or her own seal on the ballot box after the counting of the votes, when the deputy returning officer seals the box under clause 55 (1) (c), so that ballots cannot be deposited or withdrawn without breaking the seal. 1996, c. 32, Sched., s. 47 (5).

Prohibition

48. (1) While an elector is in a voting place, no person shall attempt, directly or indirectly, to influence how the elector votes. 1996, c. 32, Sched., s. 48 (1).

No election campaign material

(2) Without limiting the generality of subsection (1), no person shall display a candidate's election campaign material or literature in a voting place. 1996, c. 32, Sched., s. 48 (2).

Interpretation

(3) For the purpose of this section,

“voting place” includes any place in the immediate vicinity of the voting place designated by the clerk. 2002, c. 17, Sched. D, s. 18.

Secrecy

49.(1) Every person who is present in a voting place or at the counting of the votes shall help to maintain the secrecy of the voting. 1996, c. 32, Sched., s. 49 (1).

Offences

(2) No person shall,

- (a) interfere or attempt to interfere with an elector who is marking the ballot;
- (b) obtain or attempt to obtain, at a voting place, information about how an elector intends to vote or has voted; or
- (c) communicate any information obtained at a voting place about how an elector intends to vote or has voted. 1996, c. 32, Sched., s. 49 (2).

Same

(3) No elector shall show his or her marked ballot to any person so as to reveal how he or she has voted, except in connection with obtaining assistance in voting under paragraph 4 of subsection 52 (1). 1996, c. 32, Sched., s. 49 (3).

No requirement of disclosure

(4) No person shall, in a legal proceeding relating to an election, be required to disclose how he or she voted at the election. 1996, c. 32, Sched., s. 49 (4).

Elector's absence from work

50.(1) An elector whose hours of employment are such that he or she would not otherwise have three consecutive hours to vote on voting day is entitled to be absent from work for as long as is necessary to allow that amount of time. 1996, c. 32, Sched., s. 50 (1).

Employer's convenience

(2) The absence shall be timed to suit the employer's convenience as much as possible. 1996, c. 32, Sched., s. 50 (2).

No deduction or penalty

(3) The employer shall not make a deduction from the employee's pay or impose any other penalty for the absence from work. 1996, c. 32, Sched., s. 50 (3).

Elector's right to vote

51.(1) An elector whose name appears on the voters' list for a voting place is entitled to vote there, subject to subsection (2). 1996, c. 32, Sched., s. 51 (1).

Rules

(2) The following rules apply to the exercise of the right to vote:

1. An elector who is entitled to vote for offices on a municipal council or local board may vote in only one of the voting places established for the area of jurisdiction of the municipality or local board, as the case may be.
2. However, an elector who is entitled to vote in more than one of the local municipalities forming part of an upper-tier municipality is entitled to vote in one voting place established for each of the local municipalities for offices on the local councils, even if the holders of the offices would or could under certain circumstances also be members of the upper-tier council.
3. An elector is entitled to vote for as many candidates for an office as there are members to be elected to that office, but only once for each candidate.
4. An elector is entitled to vote only once on a by-law or question.
5. An elector may vote only in accordance with the information relating to him or her on the voters' list. 1996, c. 32, Sched., s. 51 (2).

Voting procedure

52. (1) The following procedure shall be followed when a person enters a voting place and requests a ballot:

1. Subject to paragraph 3, the deputy returning officer shall give the person a ballot only if,
 - i. the deputy returning officer is satisfied that the person is entitled to vote at the voting place, and
 - ii. the person presents the prescribed proof of identity and residence or completes an application in the prescribed form, including a statutory declaration that he or she is the elector shown on the voters' list.

2. If the deputy returning officer, a scrutineer or a certified candidate objects to the person voting, the deputy returning officer shall have the fact of the objection and by whom it was made recorded on the voters' list next to the person's name.
3. When an objection has been made as described in paragraph 2, the deputy returning officer shall give the person a ballot if the person takes an oath or affirmation stating that he or she is entitled to be an elector for the voting place and has not already voted in the election.
4. The deputy returning officer may permit an elector who needs assistance in voting to have such assistance as the deputy returning officer considers necessary.
5. An elector is no longer entitled to vote if, after receiving a ballot, he or she leaves the voting place without returning the ballot, or declines to vote and returns the ballot. 1996, c. 32, Sched., s. 52 (1); 2002, c. 17, Sched. D, s. 19 (1); 2009, c. 33, Sched. 21, s. 8 (24).

Amendment of voters' list

(2) On receiving an approved application under section 24 to amend the voters' list, the deputy returning officer shall amend the voters' list in accordance with the application. 1996, c. 32, Sched., s. 52 (2).

Marking ballot, etc.

- (3) On receiving the ballot from the deputy returning officer, the elector shall,
- (a) make a cross or other mark on the ballot, within the space designated for the marking of the ballot to the right of the name of each candidate for whom the elector wishes to vote (or, in the case of a by-law or question, to the right of the answer for which he or she wishes to vote);
 - (b) fold the ballot in a manner that conceals its face; and
 - (c) return the folded ballot to the deputy returning officer. 1996, c. 32, Sched., s. 52 (3); 2002, c. 17, Sched. D, s. 19 (2).

Deposit in ballot box

(4) On receiving the ballot from the elector, the deputy returning officer shall immediately deposit it in the ballot box, in the full view of the elector and any persons described in clauses 47 (1) (b), (c), (d) and (e) who are in the voting place. 1996, c. 32, Sched., s. 52 (4).

Emergency

53.(1) The clerk may declare an emergency if he or she is of the opinion that circumstances have arisen that are likely to prevent the election being conducted in accordance with this Act. 1996, c. 32, Sched., s. 53 (1).

Arrangements

(2) On declaring an emergency, the clerk shall make such arrangements as he or she considers advisable for the conduct of the election. 1996, c. 32, Sched., s. 53 (2).

Conflict

(3) 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. 1996, c. 32, Sched., s. 53 (3).

Time

(4) The emergency continues until the clerk declares that it has ended. 1996, c. 32, Sched., s. 53 (4).

No review or setting aside

(5) If made in good faith, the clerk's declaration of emergency and arrangements shall not be reviewed or set aside on account of unreasonableness or supposed unreasonableness. 1996, c. 32, Sched., s. 53 (5).

COUNTING OF VOTES

Counting of votes

54.(1) Immediately after the close of voting on voting day, the deputy returning officer shall open the ballot box for his or her voting place and proceed to count,

- (a) in the case of an election for office, the number of votes for each candidate;
- (b) in the case of an election to obtain the assent of the electors to a by-law, the number of votes in favour of the by-law and the number opposed to it; and
- (c) in the case of an election to obtain the opinion of the electors on any question, the number of votes for each possible answer to the question. 1996, c. 32, Sched., s. 54 (1).

Rejection of ballots

(2) The deputy returning officer shall reject from the count all ballots and votes in a ballot that do not comply with the prescribed rules. 1996, c. 32, Sched., s. 54 (2).

Objections

(3) A scrutineer or certified candidate may object to a ballot, or to the counting of some or all votes in a ballot, on the ground that the ballot or votes do not comply with the prescribed rules. 1996, c. 32, Sched., s. 54 (3).

Duty of deputy returning officer

(4) The deputy returning officer shall,

- (a) decide all objections;
- (b) establish a list in which the objections are summarized and individually numbered; and
- (c) write the number of each objection on the back of the relevant ballot and initial the number. 1996, c. 32, Sched., s. 54 (4).

Delivery of statement and ballot box to clerk

55.(1) As soon as possible after counting the votes, the deputy returning officer shall,

- (a) prepare a statement, in duplicate, showing the results of the election at the voting place;
- (b) place the ballots and all other materials and documents related to the election, except the original statement of results, in the ballot box;
- (c) seal the ballot box so that ballots cannot be deposited in or withdrawn from it without breaking the seal; and
- (d) deliver the original statement of results and the ballot box to the clerk. 1996, c. 32, Sched., s. 55 (1).

Copies of statement

(2) A scrutineer or certified candidate is entitled to receive a copy of the statement of results

from the clerk, on request. 1996, c. 32, Sched., s. 55 (2).

Results of election

(3) The clerk shall determine the results of the election by compiling the statements of results received from the deputy returning officers. 1996, c. 32, Sched., s. 55 (3).

Declaration

(4) The clerk shall, as soon as possible after voting day,

(a) declare the candidate or candidates, as the case may be, who received the highest number of votes to be elected; and

(b) declare the result of any vote on a by-law or question. 1996, c. 32, Sched., s. 55 (4).

Examination of documents and materials

(5) Despite subsection 88 (6) (records), the clerk may, if he or she considers it necessary in order to interpret the statement of results, examine any of the documents and materials in a ballot box in the presence of the relevant deputy returning officer. 1996, c. 32, Sched., s. 55 (5).

RECOUNTS

Recount, tied vote

56. (1) The clerk shall hold a recount,

(a) of the votes for two or more candidates who receive the same number of votes and cannot both or all be declared elected to the office;

(b) of the votes on a by-law, if the votes for the affirmative and negative are equal;

(c) of the votes for two or more answers to a question, if the votes are equal. 1996, c. 32, Sched., s. 56 (1).

Time for recount

(2) The recount shall be held within 15 days after the clerk's declaration of the results of the election. 1996, c. 32, Sched., s. 56 (2); 2002, c. 17, Sched. D, s. 20.

Recount for municipality, local board or Minister

57. (1) Within 30 days after the clerk's declaration of the results,

(a) the council of a municipality may pass a resolution requiring a recount of the votes cast,

(i) for all or specified candidates for an office on the council,

(ii) for all or specified answers to a question submitted by the council,

(iii) for and against a by-law submitted by the council;

(b) a local board may pass a resolution requiring a recount of the votes cast,

(i) for all or specified candidates for an office on the local board, or

(ii) for all or specified answers to a question submitted by the local board;

(c) the Minister may make an order requiring a recount of the votes cast for all or specified answers to a question submitted by him or her. 1996, c. 32, Sched., s. 57 (1).

Recount

(2) The clerk shall hold a recount in accordance with the resolution or order, within 15

days after it is passed or made. 1996, c. 32, Sched., s. 57 (2); 2002, c. 17, Sched. D, s. 21.

Application for order for recount

58. (1) A person who is entitled to vote in an election and has reasonable grounds for believing the election results to be in doubt may apply to the Superior Court of Justice for an order that the clerk hold a recount. 1996, c. 32, Sched., s. 58 (1); 2002, c. 17, Sched. D, s. 22 (1).

Time for application

(2) The application shall be commenced within 30 days after the clerk's declaration of the results of the election. 1996, c. 32, Sched., s. 58 (2).

Order, notice

(3) If satisfied that there are sufficient grounds for it, the court shall make an order requiring the clerk to hold a recount of the votes cast for all or specified candidates, on a by-law, or for all or specified answers to a question, and shall give the clerk a copy of the order as soon as possible. 1996, c. 32, Sched., s. 58 (3).

Time for recount

(4) The recount shall be held within 15 days after the day the clerk receives a copy of the order. 1996, c. 32, Sched., s. 58 (4); 2002, c. 17, Sched. D, s. 22 (2).

Procedures

(5) The Minister may by regulation establish procedures for applications under this section. 1996, c. 32, Sched., s. 58 (5).

Problems re voting and vote-counting equipment

(6) A request for a recount due to problems related to voting and vote-counting equipment may be made only under this section. 1996, c. 32, Sched., s. 58 (6).

Inclusion of related recount

59. The clerk may conduct, as part of a recount under section 56, 57 or 58 that relates to an office, a recount of the votes cast for another candidate for that office. 1996, c. 32, Sched., s. 59.

Manner of doing recount

60.(1) A recount under section 56, 57 or 58 shall be conducted in the same manner as the original count, whether manually or by vote-counting equipment, subject to subsection (3). 1996, c. 32, Sched., s. 60 (1).

Prescribed rules

(2) A recount shall be conducted in accordance with the prescribed rules, subject to subsection (3). 1996, c. 32, Sched., s. 60 (2).

Order specifying different manner of doing recount

(3) If the judge who orders a recount under section 58 is of the opinion that the manner in which the original count was conducted caused or contributed to the doubtful result, he or she may, in the order, provide that the recount shall be held in a different manner and specify the manner. 1996, c. 32, Sched., s. 60 (3).

Who may be present at recount, election to office

61.(1) The following persons may be present at a recount under section 56, 57 or 58 that relates to an office:

1. The clerk and any other election official appointed for the recount.
2. Every certified candidate for the office.

3. The applicant, in the case of a recount ordered under section 58.
4. For each person referred to in paragraphs 2 and 3,
 - i. a lawyer, and
 - ii. one scrutineer for each recount station established by the clerk. 1996, c. 32, Sched., s. 61 (1).

Same, by-law or question

(2)The following persons may be present at a recount that relates to a by-law or question:

1. The clerk and any other election official appointed for the recount.
2. The scrutineers appointed by the municipality or local board or by the Minister, as the case may be.
3. The applicant, in the case of a recount ordered under section 58.
4. For the applicant referred to in paragraph 3,
 - i. a lawyer, and
 - ii. one scrutineer for each recount station established by the clerk. 1996, c. 32, Sched., s. 61 (2).

Number of scrutineers re by-law

(3)If the vote is on a by-law and scrutineers are to be appointed under subsection 16 (2),

- (a) equal numbers of scrutineers shall be appointed to represent supporters and opponents of the by-law; and
- (b) one scrutineer representing supporters and one representing opponents may be present for each recount station established by the clerk. 1996, c. 32, Sched., s. 61 (3).

Number of scrutineers re question

(4)If the vote is on a question and scrutineers are to be appointed under subsections 16 (2) and (3),

- (a) equal numbers of scrutineers shall be appointed for each possible answer to the question; and
- (b) one scrutineer for each of the possible answers may be present for each recount station established by the clerk. 1996, c. 32, Sched., s. 61 (4).

Examination of ballot

(5)A person referred to in paragraph 2, 3 or 4 of subsection (1) or (2) is entitled,

- (a) to examine each ballot as the votes are being counted by the clerk (but not to touch the ballot); and
- (b) to dispute the validity of a ballot or the counting of votes in a ballot. 1996, c. 32, Sched., s. 61 (5).

Determination of disputes

(6)The clerk shall determine a dispute referred to in clause (5) (b). 1996, c. 32, Sched., s. 61 (6).

Other persons

(7)Any other person may also be present at the recount with the clerk's permission. 1996,

c. 32, Sched., s. 61 (7).

Duty of clerk

62.(1) When the recount is complete, the clerk shall,

- (a) announce the result of the recount; and
- (b) if there are disputed ballots,
 - (i) announce the number of them,
 - (ii) announce the result that would be obtained if the disputed ballots were excluded, and
 - (iii) write the number of the voting place on the back of and initial each disputed ballot, place them in a separate envelope clearly marked so as to indicate its contents, and seal the envelope. 1996, c. 32, Sched., s. 62 (1).

Who may be present

(2) Any persons described in subsections 61 (1), (2) and (7) who are at the recount are entitled to be present while the clerk acts under subsection (1). 1996, c. 32, Sched., s. 62 (2).

Tied vote

(3) If the recount indicates that two or more candidates who cannot both or all be declared elected to an office have received the same number of votes, the clerk shall choose the successful candidate or candidates by lot. 1996, c. 32, Sched., s. 62 (3).

Declaration by clerk

(4) If no application has been made for a judicial recount under section 63 the clerk shall, on the 16th day after the recount is completed, declare the successful candidate or candidates elected or declare the result of the vote with respect to a by-law or question, as the case may be. 1996, c. 32, Sched., s. 62 (4).

Application for judicial recount

63. (1) A person described in subsection (2) who disputes the validity of a ballot or of the counting of votes in a ballot may, within 15 days after the clerk announces the result under section 62, apply to the Superior Court of Justice for a recount limited to the disputed ballots. 1996, c. 32, Sched., s. 63 (1); 2002, c. 17, Sched. D, s. 23 (1).

Who may apply

(2) Subsection (1) applies to a certified candidate, an applicant under section 58 or, in the case of a by-law or question, the municipality or local board or the Minister, as the case may be. 1996, c. 32, Sched., s. 63 (2).

Notice of application

(3) Notice of the application shall be served on the clerk and, if the application concerns an office, on each certified candidate. 1996, c. 32, Sched., s. 63 (3).

Summary procedure

(4) The application shall be dealt with in a summary manner, without application records or factums; the recount itself forms part of the hearing of the application. 1996, c. 32, Sched., s. 63 (4).

Clerk to attend and provide materials

(5) The clerk shall attend the recount and provide the court with,

- (a) a certified copy of the result of the recount conducted by the clerk;
- (b) a certified copy of the result of the recount conducted by the clerk excluding the disputed ballots;
- (c) the sealed envelope containing the disputed ballots from the recount conducted by the clerk; and
- (d) any other documents relating to the election that are relevant to the application. 1996, c. 32, Sched., s. 63 (5).

Duty of court

- (6) The court shall conduct the recount by,
- (a) determining the validity of the disputed ballots or of the counting of votes in any disputed ballots; and
 - (b) recalculating the result of the election using the determinations made under clause (a) and the certified results referred to in clause (5) (b). 1996, c. 32, Sched., s. 63 (6).

Who may be present

(7) Any persons who were present at the recount under section 56, 57 or 58 are entitled to be present at the hearing and recount under this section. 1996, c. 32, Sched., s. 63 (7).

Order

- (8) When the recount is complete the court shall,
- (a) make an order incorporating its decisions under subsection (6);
 - (b) announce to the persons present,
 - (i) the result of the recount, and
 - (ii) how the court dealt with the disputed ballots;
 - (c) place the disputed ballots in the original envelope and reseal it; and
 - (d) return to the clerk the material provided under subsection (5). 1996, c. 32, Sched., s. 63 (8).

Copy of order

(9) The court shall give a certified copy of the order to the clerk. 1996, c. 32, Sched., s. 63 (9).

Tied vote

(10) If the recount indicates that two or more candidates who cannot both or all be declared elected to an office have received the same number of votes, the clerk shall choose the successful candidate or candidates by lot. 1996, c. 32, Sched., s. 63 (10).

Declaration

(11) After receiving the order, the clerk shall declare the successful candidate or candidates to be elected or declare the result of the vote with respect to a by-law or question, as the case may be. 1996, c. 32, Sched., s. 63 (11).

No appeal

(12) Despite section 6 of the *Courts of Justice Act*, an order under this section cannot be appealed. 2002, c. 17, Sched. D, s. 23 (2).

Right to sit pending final disposition

64.(1) A candidate who has been declared elected under section 55 is entitled to sit and vote on the council or local board until the recount and all applications under this Act have been finally disposed of and a different candidate has been declared elected. 1996, c. 32, Sched., s. 64 (1).

Decisions unaffected

(2) Decisions of a council or local board in which a candidate described in subsection (1) has participated are unaffected even if another candidate is afterwards declared elected as the result of a recount. 1996, c. 32, Sched., s. 64 (2).

BY-ELECTIONS

By-elections

65. (1) The clerk shall conduct by-elections in accordance with this section. 1996, c. 32, Sched., s. 65 (1).

No by-election after March 31 in year of regular election

(2) Despite any Act, no by-election shall be held to fill an office that becomes vacant after March 31 in the year of a regular election and no by-election shall be held with respect to a question or by-law after March 31 in the year of a regular election unless it is held in conjunction with a by-election for an office. 1996, c. 32, Sched., s. 65 (2); 2002, c. 17, Sched. D, s. 24 (1).

Act applies

(3) Subject to subsections (4) and (5), by-elections shall be conducted as far as possible in the same way as regular elections. 1996, c. 32, Sched., s. 65 (3).

Rules, by-election to office

(4) If a by-election is to be held for an office, the following rules apply:

1. The clerk shall fix the date of nomination day, to be a day not more than 60 days after,
 - i. a court orders a by-election,
 - ii. the council of the clerk's municipality passes a by-law indicating a by-election is required, or the clerk receives a copy of such a by-law from another municipality whose elections he or she is responsible for conducting,
 - iii. the clerk receives from a local board whose elections he or she is responsible for conducting a copy of a resolution indicating a by-election is required,
 - iv. the Minister makes an order under subsection 266 (1) of the *Municipal Act, 2001* or subsection 211 (1) of the *City of Toronto Act, 2006* declaring all of the offices of the members to be vacant,
 - v. a candidate for the office dies or becomes ineligible to hold the office under the circumstances described in clause 39 (b), or
 - vi. the last acclamations are declared under section 37, if the by-election is required by subsection 37 (3) or (4).
2. Nominations may be filed during the period that begins on the date of the event described in paragraph 1 and ends at 2 p.m. on nomination day.
 - 2.1 If the by-election for an office is being held as a result of the death or ineligibility of a candidate or insufficient nominations in a regular election, a person may, despite section 29, only be nominated for the office if the person meets the requirements of

- clauses 29 (1) (a) and (b) both on nomination day of the regular election and on the day the person is nominated for the by-election.
3. Voting day shall be 45 days after nomination day.
 4. The voters' list shall be prepared as follows:
 - i. the clerk shall notify the Municipal Property Assessment Corporation that a by-election is required,
 - ii. the Municipal Property Assessment Corporation shall, at least 21 days before nomination day, give the clerk the preliminary list or the part of it that is required for the by-election, updated to the date the Municipal Property Assessment Corporation received the clerk's notice,
 - iii. the clerk shall make corrections to the preliminary list under section 22 as soon as possible after receiving the list, and
 - iv. the corrected list constitutes the voters' list.
 5. Applications to revise the voters' list may be made under section 24 or 25 during the period that begins when the clerk has made corrections as described in subparagraph iii of paragraph 4 and ends at the close of voting on voting day.
 6. Despite paragraph 7, a voting proxy appointed under section 44 may be any person entitled to be an elector if a regular election was held on the day of the by-election.
 7. A person is not eligible to vote in a by-election for an office if the person could not vote for that office if a regular election was held on the day of the by-election. 1996, c. 32, Sched., s. 65 (4); 2002, c. 17, Sched. D, s. 24 (2-7); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 34 (6); 2006, c. 33, Sched. Z.3, s. 18 (5, 6); 2009, c. 33, Sched. 21, s. 8 (25-27).

Rules, question or by-law

(5) If the by-election relates to a question or by-law, the following rules apply, subject to subsection (6):

1. The clerk shall fix the date of voting day, to be a day not more than 60 days after,
 - i. the council of the clerk's municipality passes a by-law indicating a by-election is required, or the clerk receives a copy of such a by-law from another municipality whose elections he or she is responsible for conducting,
 - ii. the clerk receives from a local board whose elections he or she is responsible for conducting a copy of a resolution indicating a by-election is required,
 - iii. the clerk receives an order from the Minister indicating a by-election is required.
2. Despite rule 1, in the case of a question under section 53 or 54 of the *Liquor Licence Act*, the date of voting day is fixed by the council of the municipality with the approval of the Liquor Licence Board of Ontario under section 55 of that Act.
- 2.1 Despite rules 1 and 2, in the case of a question authorized by a by-law under clause 8 (1) (b) or (c), the date of voting day shall be a day at least 180 days after the day the by-law is passed.
3. The rules relating to the voters' list are the same as in paragraphs 4 and 5 of subsection

(4).

4. The rule set out in paragraph 6 of subsection (4) applies to voting proxies.
5. A person is not eligible to vote in a by-election relating to a question or by-law if the person could not vote with respect to that question or by-law if a regular election was held on the day of the by-election. 1996, c. 32, Sched., s. 65 (5); 2000, c. 5, s. 32 (1); 2002, c. 17, Sched. D, s. 24 (8, 9).

Combination

(6) If a by-election for an office and a by-election that relates to a by-law or question are to be conducted at the same time, both shall be conducted in accordance with subsection (4). 1996, c. 32, Sched., s. 65 (6); 2000, c. 5, s. 32 (2); 2002, c. 17, Sched. D, s. 24 (10).

ELECTION CAMPAIGN FINANCES

Contributions

66.(1) For the purposes of this Act, money, goods and services given to and accepted by or on behalf of a person for his or her election campaign are contributions. 1996, c. 32, Sched., s. 66 (1).

Additional rules

(2) Without restricting the generality of subsection (1), the following rules apply in determining whether an amount is a contribution:

1. The following amounts are contributions:
 - i. an amount charged for admission to a fund-raising function,
 - ii. if goods and services are sold at a fund-raising function for more than their market value, the difference between the amount paid and market value,
 - iii. if goods and services used in a person's election campaign are purchased for less than their market value, the difference between the amount paid and market value, and
 - iv. any unpaid but guaranteed balance in respect of a loan under section 75.
2. The following amounts are not contributions:
 - i. the value of services provided by voluntary unpaid labour,
 - ii. the value of services provided voluntarily, under the person's direction, by an employee whose compensation from all sources for providing them does not exceed the compensation the employee would normally receive for the period the services are provided,
 - iii. an amount of \$10 or less that is donated at a fund-raising function,
 - iv. the value of political advertising provided without charge on a broadcasting undertaking as defined in section 2 of the *Broadcasting Act* (Canada), if
 - A. it is provided in accordance with that Act and the regulations and guidelines made under it, and
 - B. it is provided equally to all candidates for office on the particular council or local board,

v. the amount of a loan under section 75. 1996, c. 32, Sched., s. 66 (2).

Value of goods and services

(3)The value of goods and services provided as a contribution is,

- (a) if the contributor is in the business of supplying these goods and services, the lowest amount the contributor charges the general public in the same market area for similar goods and services provided at or about the same time;
- (b) if the contributor is not in the business of supplying these goods and services, the lowest amount a business providing similar goods or services charges the general public for them in the same market area at or about the same time. 1996, c. 32, Sched., s. 66 (3).

No penalty

(4)No employer shall impose any penalty on an employee who refuses to provide services voluntarily as described in subparagraph ii of paragraph 2 of subsection (2). 1996, c. 32, Sched., s. 66 (4).

Expenses

67.(1)For the purposes of this Act, costs incurred for goods or services by or on behalf of a person wholly or partly for use in his or her election campaign are expenses. 1996, c. 32, Sched., s. 67 (1).

Additional rules

(2)Without restricting the generality of subsection (1), the following amounts are expenses:

1. The replacement value of goods retained by the person from any previous election and used in the current election.
2. The value of contributions of goods and services.
3. Audit and accounting fees.
4. Interest on loans under section 75.
5. The cost of holding fund-raising functions.
6. The cost of holding parties and making other expressions of appreciation after the close of voting.
7. Expenses relating to a recount.
8. Expenses relating to proceedings under section 83 (controverted elections).
- 8.1 Expenses relating to a compliance audit.
- 8.2 Expenses that are incurred by a candidate with a disability, are directly related to the disability, and would not have been incurred but for the election to which the expenses relate.
9. The nomination filing fee referred to in section 33. 1996, c. 32, Sched., s. 67 (2); 2009, c. 33, Sched. 21, s. 8 (28).

Same

(2.1) For greater certainty, the cost of holding fund-raising functions under paragraph 5 of subsection (2) does not include costs related to,

- (a) events or activities that are organized for such purposes as promoting public awareness

of a candidate and at which the soliciting of contributions is incidental; or

(b) promotional materials in which the soliciting of contributions is incidental. 2009, c. 33, Sched. 21, s. 8 (29).

Same

(3) The expenses described in paragraphs 7, 8 and 8.1 of subsection (2) include expenses relating to recounts and proceedings under section 81 (compliance audit) and section 83 (controversial elections) from a previous election for an office on the same council or local board, if the expenses were incurred after the person's election campaign period for that office in the previous election ended under subparagraph ii of paragraph 4 or subparagraph ii of paragraph 5 of subsection 68 (1). 1996, c. 32, Sched., s. 67 (3); 2009, c. 33, Sched. 21, s. 8 (30).

Election campaign period

68.(1) For the purposes of this Act, a candidate's election campaign period for an office shall be determined in accordance with the following rules:

1. The election campaign period begins on the day he or she files a nomination for the office under section 33.
2. The election campaign period ends on December 31 in the case of a regular election and 45 days after voting day in the case of a by-election.
3. Despite rule 2, the election campaign period ends,
 - i. on the day the nomination is withdrawn under section 36 or deemed to be withdrawn under subsection 29 (2), or
 - ii. on nomination day, if the nomination is rejected under section 35.
4. Despite rules 2 and 3, if the candidate has a deficit at the time the election campaign period would otherwise end and the candidate notifies the clerk in writing on or before December 31 in the case of a regular election and 45 days after voting day in the case of a by-election, the campaign period is extended and is deemed to have run continuously from the date of nomination until the earliest of,
 - i. the following June 30, in the case of a regular election,
 - i.1 the end of the six-month period following the 60th day after voting day, in the case of a by-election,
 - ii. the day he or she is nominated in a subsequent election for an office on the council or local board in respect of which the deficit was incurred,
 - iii. the day the candidate notifies the clerk in writing that he or she will not accept further contributions, and
 - iv. the day A equals the total of B and C, where,

A= any further contributions,

B= the expenses incurred during the extension of the election campaign period,

C= the amount of the candidate's deficit at the start of the extension of the election campaign period.
5. If, after the election campaign period ends under rule 2, 3 or 4, the candidate incurs expenses relating to a recount or to a proceeding under section 81 (compliance audit)

or section 83 (controverted elections) and the candidate notifies the clerk in writing, the campaign period is deemed to have recommenced, subject to subsection (2), and to have run continuously from the date of nomination until the earliest of,

- i. the day the total of A and B equal the total of C and D, where,
 - A= any amount released to the candidate under subsection 79 (7),
 - B= any further contributions,
 - C= the expenses incurred after the election campaign period recommences,
 - D= the amount of the candidate's deficit, if any, before the election campaign period recommenced,
- ii. the day he or she is nominated in a subsequent election for an office on the council or local board in respect of which the expenses referred to in subparagraph i were incurred,
- iii. the day the candidate notifies the clerk in writing that he or she will not accept further contributions,
- iv. the following June 30, in the case of a regular election, and
- v. the end of the six-month period following the 60th day after voting day, in the case of a by-election. 1996, c. 32, Sched., s. 68 (1); 2000, c. 5, s. 33; 2002, c. 17, Sched. D, s. 25; 2009, c. 33, Sched. 21, s. 8 (31-33).

Same

(2) An election campaign period that has ended under subparagraph ii of paragraph 4 or subparagraph ii of paragraph 5 of subsection (1) cannot recommence under paragraph 5. 1996, c. 32, Sched., s. 68 (2).

Multiple and combined campaigns

(3) The following rules apply if a person is a candidate, at different times in the same election, for more than one office on the same council or local board:

1. The person's campaigns for offices for which the election is conducted by general vote shall be deemed to be one campaign for the last office for which he or she is nominated, but the election campaign period begins on the day of the first nomination.
2. Each campaign for an office for which the election is conducted by ward is a separate campaign. 1996, c. 32, Sched., s. 68 (3).

Duties of candidate

69. (1) A candidate shall ensure that,

- (a) one or more campaign accounts are opened at a financial institution, exclusively for the purposes of the election campaign and in the name of the candidate's election campaign;
- (b) all contributions of money are deposited into the campaign accounts;
- (c) all payments for expenses, except for a nomination filing fee, are made from the campaign accounts;
- (d) contributions of goods or services are valued;
- (e) receipts are issued for every contribution and obtained for every expense;

- (f) records are kept of,
 - (i) the receipts issued for every contribution,
 - (ii) the value of every contribution,
 - (iii) whether a contribution is in the form of money, goods or services, and
 - (iv) the contributor's name and address;
- (g) records are kept of every expense including the receipts obtained for each expense;
- (h) records are kept of any claim for payment of an expense that the candidate disputes or refuses to pay;
- (i) records are kept of the gross income from a fund-raising function and the gross amount of money received at a fund-raising function by donations of \$10 or less;
- (j) records are kept of any loan and its terms under section 75;
- (j.1) the records described in clauses (f), (g), (h), (i) and (j) are retained by the candidate for the term of office of the members of the council or local board and until their successors are elected and the newly elected council or local board is organized;
- (k) financial filings are made in accordance with sections 78 and 79.1;
- (l) proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions on behalf of the candidate;
- (m) a contribution of money made or received in contravention of this Act is returned to the contributor as soon as possible after the candidate becomes aware of the contravention;
- (n) a contribution not returned to the contributor under clause (m) is paid to the clerk with whom the candidate's nomination was filed; and
- (o) an anonymous contribution is paid to the clerk with whom the candidate's nomination was filed. 1996, c. 32, Sched., s. 69 (1); 2002, c. 17, Sched. D, s. 26; 2009, c. 33, Sched. 21, s. 8 (34).

Contributions paid to clerk

(2) Contributions paid to the clerk under clause (1) (n) or (o) become the property of the local municipality. 1996, c. 32, Sched., s. 69 (2).

Contributions only after nomination

70. (1) A contribution shall not be made to or accepted by or on behalf of a person unless he or she is a candidate. 1996, c. 32, Sched., s. 70 (1).

Only during election campaign period

(2) A contribution shall not be made to or accepted by or on behalf of a candidate outside his or her election campaign period. 1996, c. 32, Sched., s. 70 (2).

Who may contribute

(3) Only the following may make contributions:

1. An individual who is normally resident in Ontario.
2. A corporation that carries on business in Ontario.
3. A trade union that holds bargaining rights for employees in Ontario.

4. Subject to subsection (5), the candidate and his or her spouse. 1996, c. 32, Sched., s. 70 (3); 1999, c. 6, s. 43 (4); 2005, c. 5, s. 46 (4).

Same

(4) For greater certainty, and without limiting the generality of subsection (3), the following shall not make a contribution:

1. A federal political party registered under the *Canada Elections Act* (Canada) or any federal constituency association or registered candidate at a federal election endorsed by that party.
2. A provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act*.
3. The Crown in right of Canada or Ontario, a municipality or local board. 1996, c. 32, Sched., s. 70 (4); 2002, c. 17, Sched. D, s. 27.

Non-resident candidate, spouse

(5) If not normally resident in Ontario, a candidate and his or her spouse may make contributions only to the candidate's election campaign. 1996, c. 32, Sched., s. 70 (5); 1999, c. 6, s. 43 (5); 2005, c. 5, s. 46 (5).

Who may accept contribution

(6) A contribution may be accepted only by a candidate or an individual acting under the candidate's direction. 1996, c. 32, Sched., s. 70 (6).

Contributors

(7) A contribution may be accepted only from a person or entity that is entitled to make a contribution. 1996, c. 32, Sched., s. 70 (7).

Cash

(8) A contribution of money in cash that exceeds \$25 shall not be made to or accepted by or on behalf of a candidate. 1996, c. 32, Sched., s. 70 (8).

Contributions re City of Toronto

70.1 (1) The City of Toronto may by by-law prohibit a corporation that carries on business in Ontario or a trade union that holds bargaining rights for employees in Ontario from making a contribution to or for any candidate for an office on city council. 2006, c. 11, Sched. B, s. 10.

Same

(2) A by-law passed under subsection (1) prevails over subsection 70 (3). 2006, c. 11, Sched. B, s. 10.

Same

(3) A by-law passed under subsection (1) applies with respect to an election if the by-law is passed before the first day on which nominations for an office on city council can be filed for the election. 2006, c. 11, Sched. B, s. 10.

Notice

(4) The clerk shall give notice of a by-law passed under subsection (1) at the same time and in the same manner as notice is given under section 32. 2006, c. 11, Sched. B, s. 10.

Restriction on contributions, candidate for mayor

(5) Despite subsections 71 (1) and (2), for the purposes of those subsections, the maximum total contribution a contributor may make to a candidate for the office of mayor of the City of

Toronto is \$2,500. 2006, c. 11, Sched. B, s. 10; 2006, c. 32, Sched. D, s. 11.

Maximum, each candidate

71. (1) A contributor shall not make contributions exceeding a total of \$750 to any one candidate in an election. 1996, c. 32, Sched., s. 71 (1).

More than one office

(2) If a person is a candidate for more than one office, a contributor's total contributions to him or her in respect of all the offices shall not exceed \$750. 1996, c. 32, Sched., s. 71 (2).

Multiple candidates

(2.1) A contributor shall not make contributions exceeding a total of \$5,000 to two or more candidates for office on the same council or local board. 2009, c. 33, Sched. 21, s. 8 (35).

Exception, candidates and spouses

(3) Subsections (1), (2) and (2.1) do not apply to contributions made to a candidate's own election campaign by the candidate or his or her spouse. 1996, c. 32, Sched., s. 71 (3); 1999, c. 6, s. 43 (6); 2005, c. 5, s. 46 (6); 2009, c. 33, Sched. 21, s. 8 (36).

Associated corporations

72. For the purposes of sections 66 to 82, corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be deemed to be a single corporation. 1996, c. 32, Sched., s. 72.

Restrictions re fund-raising functions

73. A fund-raising function shall not be held,

- (a) for a person who is not a candidate; or
- (b) outside the candidate's election campaign period. 1996, c. 32, Sched., s. 73.

Restriction: use of own money

74.(1) A contributor shall not make a contribution of money that does not belong to the contributor. 1996, c. 32, Sched., s. 74 (1).

Exception, will

(2) Subsection (1) does not apply to the personal representative of a deceased person whose will directs that a contribution be made to a named candidate out of the funds of the estate. 1996, c. 32, Sched., s. 74 (2).

Campaign account loan

75. (1) A candidate and his or her spouse may obtain a loan from a bank or other recognized lending institution in Ontario, to be paid directly into the candidate's campaign account. 1996, c. 32, Sched., s. 75 (1); 1999, c. 6, s. 43 (7); 2005, c. 5, s. 46 (7).

Who may guarantee

(2) No person other than the candidate and the spouse shall guarantee the loan. 1996, c. 32, Sched., s. 75 (2); 1999, c. 6, s. 43 (8); 2005, c. 5, s. 46 (8).

Expenses

76.(1) An expense shall not be incurred by or on behalf of a person unless he or she is a candidate. 1996, c. 32, Sched., s. 76 (1).

Only during election campaign period

(2) An expense shall not be incurred by or on behalf of a candidate outside his or her election campaign period. 1996, c. 32, Sched., s. 76 (2).

Who may incur expense

(3) An expense may only be incurred by a candidate or an individual acting under the candidate's direction. 1996, c. 32, Sched., s. 76 (3).

Maximum amount

(4) During the period that begins on the day a candidate is nominated under section 33 and ends on voting day, his or her expenses shall not exceed an amount calculated in accordance with the prescribed formula. 1996, c. 32, Sched., s. 76 (4).

Prescribed formula

(4.1) The prescribed formula must be written so that the amount calculated under it varies based on the number of electors entitled to vote for the office for which the candidate is nominated. 2009, c. 33, Sched. 21, s. 8 (37).

Exception

(5) Subsection (4) does not apply in respect of expenses described in paragraphs 3 and 5 to 8.2 of subsection 67 (2). 1996, c. 32, Sched., s. 76 (5); 2009, c. 33, Sched. 21, s. 8 (38).

Number of electors

- (6) For the purpose of subsection (4), the number of electors is the greater of,
- (a) the number determined from the voters' list from the previous election, as it existed on nomination day of the previous election, adjusted for applications under sections 24 and 25 that were approved as of that day; and
 - (b) the number determined from the voters' list for the current election, as it exists on nomination day of the current election, adjusted for applications under sections 24 and 25 that are approved as of that day. 2009, c. 33, Sched. 21, s. 8 (39).

Duty of clerk

- (7) Within 10 days after nomination day, the clerk shall,
- (a) calculate the maximum permitted by subsection (4) for each office for which nominations were filed with him or her; and
 - (b) give a certificate of the applicable maximum to each candidate. 1996, c. 32, Sched., s. 76 (7).

Clerk's calculation final

(8) The clerk's calculation is final. 1996, c. 32, Sched., s. 76 (8).

Filing dates and reporting periods

77. For the purposes of documents to be filed under section 78,
- (a) the filing date is,
 - (i) in the case of a regular election, the last Friday in March following the election, and
 - (ii) in the case of a by-election, 60 days after voting day;
 - (b) the supplementary filing date is the last Friday in September; and
 - (c) the supplementary reporting period is,
 - (i) in the case of a regular election, the six-month period following the year of the election, and

- (ii) in the case of a by-election, the six-month period following the 60th day after voting day. 2009, c. 33, Sched. 21, s. 8 (40).

Financial statement and auditor's report

78. (1) 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. 1996, c. 32, Sched., s. 78 (1); 2000, c. 5, s. 35 (1); 2002, c. 17, Sched. D, s. 29 (1); 2009, c. 33, Sched. 21, s. 8 (41).

Supplementary financial statement and auditor's report

(2) If the candidate's election campaign period continues during all or part of the supplementary reporting period, he or she shall, before 2 p.m. on the supplementary filing date, file a supplementary financial statement and auditor's report for the supplementary reporting period. 1996, c. 32, Sched., s. 78 (2); 2002, c. 17, Sched. D, s. 29 (2); 2009, c. 33, Sched. 21, s. 8 (42).

Supplementary report

(3) A supplementary financial statement or auditor's report shall include all the information contained in the initial statement or report filed under subsection (1) and in any previous supplementary statement or report under subsection (2), as the case may be, updated to reflect the changes to the candidate's election campaign finances during the supplementary reporting period. 2000, c. 5, s. 35 (2).

Auditor

(4) An auditor's report shall be prepared by an auditor licensed under the *Public Accounting Act, 2004*. 1996, c. 32, Sched., s. 78 (4); 2004, c. 8, s. 46.

Exception re auditor's report

(5) No auditor's report is required if the total contributions received and total expenses incurred in the election campaign up to the end of the relevant period are each equal to or less than \$10,000. 1996, c. 32, Sched., s. 78 (5).

Notice by clerk

(6) At least 30 days before the filing date, the clerk shall give every candidate whose nomination was filed with him or her notice, by registered mail,

- (a) of all the filing requirements of this section; and
(b) of the penalties set out in subsections 80 (2) and 92 (5). 2009, c. 33, Sched. 21, s. 8 (43).

Deemed time of receipt

(6.1) The notice is deemed to have been received on the fifth day after mailing. 2009, c. 33, Sched. 21, s. 8 (43).

Electronic filing

(7) The council of a local municipality may pass a by-law authorizing electronic filing under this section subject to such conditions and limits as are set out in the by-law. 2002, c. 17, Sched. D, s. 29 (4).

Surplus and deficit

79. (1) A candidate has a surplus if the total credits exceed the total debits, and a deficit if the reverse is true. 2009, c. 33, Sched. 21, s. 8 (44).

Total credits

(2) For the purposes of subsection (1), the total credits are the sum of,

- (a) the candidate's contributions under section 66;
- (b) any amounts of \$10 or less that were donated at fund-raising functions;
- (c) interest earned on campaign accounts; and
- (d) revenue from the sale of election materials. 2009, c. 33, Sched. 21, s. 8 (44).

Total debits

(3) For the purposes of subsection (1), the total debits are the sum of,

- (a) the candidate's expenses under section 67; and
- (b) any deficit from a previous election campaign of the candidate if that campaign,
 - (i) related to an office on the same council or local board as the present campaign, and
 - (ii) was in the previous regular election or a subsequent by-election. 2009, c. 33, Sched. 21, s. 8 (44).

Surplus paid to clerk

(4) If the candidate's financial statement or supplementary financial statement shows a surplus and the election campaign period has ended at the time the statement is filed, he or she shall, when the statement is filed, pay the surplus to the clerk with whom the candidate's nomination was filed, reduced by the amount of any refund under subsection (6). 2009, c. 33, Sched. 21, s. 8 (44).

Surplus held in trust by clerk

(5) The clerk shall hold the amount paid under subsection (4) in trust for the candidate. 2009, c. 33, Sched. 21, s. 8 (44).

Refund

(6) If a candidate who has a surplus or his or her spouse has made contributions to the election campaign, the candidate may, after the election campaign period ends but before filing the financial statement or supplementary financial statement, as the case may be, refund to himself or herself or to the spouse, as the case may be, an amount that does not exceed the lesser of,

- (a) the relevant contributions;
- (b) the surplus. 2009, c. 33, Sched. 21, s. 8 (44).

Release of amount if campaign recommences

(7) If the candidate's election campaign period recommences under rule 5 of subsection 68 (1), the clerk shall pay the amount held in trust to the candidate, with interest. 2009, c. 33, Sched. 21, s. 8 (44).

Amount to become property of municipality or local board

(8) The amount becomes the property of the municipality or local board, as the case may

be, when all of the following conditions are satisfied:

1. The campaign period has ended under rule 1, 2, 3 or 4 of subsection 68 (1).
2. It is no longer possible to recommence the campaign period under rule 5 of subsection 68 (1).
3. No recount or proceeding under section 81 (compliance audit) or section 83 (controverted elections) has been commenced.
4. The period for commencing a recount or a proceeding under section 81 or 83 has expired. 2009, c. 33, Sched. 21, s. 8 (44).

Transition, 2010 regular election and earlier

(9) Clause (2) (e) and subsections (8), (9) and (10), as they read immediately before the re-enactment of this section by subsection 8 (44) of Schedule 21 to the *Good Government Act, 2009*, continue to apply with respect to the 2010 regular election and with respect to any by-election that takes place before the 2010 regular election. 2009, c. 33, Sched. 21, s. 8 (44).

Return of surplus for subsequent expenses

79.1 (1) This section applies if all of the following circumstances exist:

1. A candidate has paid a surplus to the clerk under subsection 79 (4).
2. The campaign period has ended under rule 2, 3 or 4 of subsection 68 (1).
3. It is no longer possible to recommence the campaign period under rule 5 of subsection 68 (1).
4. The candidate subsequently incurs expenses relating to a recount or a proceeding under section 81 (compliance audit) or section 83 (controverted elections). 2009, c. 33, Sched. 21, s. 8 (44).

Return of surplus

(2) If the candidate notifies the clerk in writing that the candidate is incurring subsequent expenses relating to a recount or to a proceeding under section 81 or 83, the clerk shall return the amount of the surplus, with interest, to the candidate. 2009, c. 33, Sched. 21, s. 8 (44).

Effect of return of surplus

(3) If the surplus is returned to the candidate, the candidate is permitted to incur expenses relating to a recount or to a proceeding under section 81 or 83 but no other expenses may be incurred by the candidate. 2009, c. 33, Sched. 21, s. 8 (44).

Reporting periods

(4) The candidate's first reporting period under this section begins on the day after the surplus is returned to the candidate and ends 90 days later, and each successive period of 90 days is a further reporting period. 2009, c. 33, Sched. 21, s. 8 (44).

Financial statements

(5) For each reporting period, the candidate shall file with the clerk with whom the nomination was filed a financial statement in the prescribed form reflecting the candidate's expenses for the reporting period, and the financial statement must be filed no later than 2 p.m. on the 10th day after the end of the reporting period. 2009, c. 33, Sched. 21, s. 8 (44).

Final financial statement

(6) If, during a reporting period, the amount of surplus is reduced to zero or any remaining

surplus is no longer required by the candidate for expenses relating to a recount or to a proceeding under section 81 or 83, the candidate shall file a final financial statement. 2009, c. 33, Sched. 21, s. 8 (44).

Repayment of remaining surplus

(7) If the final financial statement indicates that there is any remaining surplus, the candidate shall pay the remaining surplus to the clerk when the financial statement is filed. 2009, c. 33, Sched. 21, s. 8 (44).

Remaining surplus held in trust by clerk

(8) The clerk shall hold the amount of the remaining surplus in trust for the candidate. 2009, c. 33, Sched. 21, s. 8 (44).

Release of amount if another recount, etc.

(9) If, after the candidate pays the remaining surplus to the clerk, another recount or proceeding under section 81 or 83 commences, subsections (2) to (8) apply, with necessary modifications, with respect to the subsequent recount or proceeding. 2009, c. 33, Sched. 21, s. 8 (44).

Amount to become property of municipality or local board

(10) The amount of the remaining surplus becomes the property of the municipality or local board, as the case may be, when the recount or proceeding under section 81 or 83 is finally determined and the period for commencing any other recount or proceeding under section 81 or 83 has expired. 2009, c. 33, Sched. 21, s. 8 (44).

Additional penalties

80. (1) 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 he or she fails to file a document as required under section 78 or 79.1 by the relevant date;
- (b) if a document filed under section 78 shows on its face a surplus, as described in section 79, and the candidate fails to pay the amount required by subsection 79 (4) to the clerk by the relevant date;
- (c) if a document filed under section 78 shows on its face that the candidate has incurred expenses exceeding what is permitted under section 76; or
- (d) if a document filed under section 79.1 shows on its face a surplus and the candidate fails to pay the amount required by subsection 79.1 (7) by the relevant date. 2009, c. 33, Sched. 21, s. 8 (44).

Same

- (2) 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. 2009, c. 33, Sched. 21, s. 8 (44).

Notice of default

(3) In the case of a default described in subsection (1), the clerk shall notify the candidate and the council or board in writing that the default has occurred. 2009, c. 33, Sched. 21, s. 8 (44).

Application to court

(4) The candidate may, before the last day for filing a document under section 78 or 79.1, apply to the Ontario Court of Justice to extend the time for filing the document under that section and, if the court is satisfied there are mitigating circumstances justifying a later date for filing the document, the court may grant an extension for the minimum period of time necessary to enable the candidate to file the document but the court shall not grant an extension of more than 90 days. 2009, c. 33, Sched. 21, s. 8 (44).

Notice to clerk

(5) If a candidate makes an application under subsection (4), the candidate shall notify the clerk in writing before 2 p.m. on the last day for filing a document under section 78 or 79.1 that the application has been made. 2009, c. 33, Sched. 21, s. 8 (44).

Effect of extension

(6) If the court grants an extension under subsection (4), the penalties set out in subsection (2) apply only if the candidate has not filed the document before the end of the extension. 2009, c. 33, Sched. 21, s. 8 (44).

Compliance audit**Application**

81. (1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

Requirements

(2) An application for a compliance audit shall be made to the clerk of the municipality or the secretary of the local board for which the candidate was nominated for office; and it shall be in writing and shall set out the reasons for the elector's belief. 2009, c. 33, Sched. 21, s. 8 (44).

Deadline

- (3) The application must be made within 90 days after the latest of,
- (a) the filing date under section 78;
 - (b) the candidate's supplementary filing date, if any, under section 78;
 - (c) the filing date for the final financial statement under section 79.1; or
 - (d) the date on which the candidate's extension, if any, under subsection 80 (4) expires.
- 2009, c. 33, Sched. 21, s. 8 (44).

Application to be forwarded to committee

(4) Within 10 days after receiving the application, the clerk of the municipality or the secretary of the local board, as the case may be, shall forward the application to the compliance audit committee established under section 81.1 and provide a copy of the application to the council or local board. 2009, c. 33, Sched. 21, s. 8 (44).

Decision

(5) Within 30 days after receiving the application, the committee shall consider the application and decide whether it should be granted or rejected. 2009, c. 33, Sched. 21, s. 8 (44).

Appeal

(6) The decision of the committee may be appealed to the Ontario Court of Justice within

15 days after the decision is made and the court may make any decision the committee could have made. 2009, c. 33, Sched. 21, s. 8 (44).

Appointment of auditor

(7) If the committee decides under subsection (5) to grant the application, it shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

Same

(8) Only auditors licensed under the *Public Accounting Act, 2004* or prescribed persons are eligible to be appointed under subsection (7). 2009, c. 33, Sched. 21, s. 8 (44).

Duty of auditor

(9) The auditor shall promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of this Act relating to election campaign finances and shall prepare a report outlining any apparent contravention by the candidate. 2009, c. 33, Sched. 21, s. 8 (44).

Who receives report

(10) The auditor shall submit the report to,

- (a) the candidate;
- (b) the council or local board, as the case may be;
- (c) the clerk with whom the candidate filed his or her nomination;
- (d) the secretary of the local board, if applicable; and
- (e) the applicant. 2009, c. 33, Sched. 21, s. 8 (44).

Report to be forwarded to committee

(11) Within 10 days after receiving the report, the clerk of the municipality or the secretary of the local board shall forward the report to the compliance audit committee. 2009, c. 33, Sched. 21, s. 8 (44).

Powers of auditor

(12) For the purpose of the audit, the auditor,

- (a) is entitled to have access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality or local board; and
- (b) has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the audit as if it were an inquiry under that Act. 2009, c. 33, Sched. 21, s. 8 (44).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is repealed and the following substituted:

(b) has the powers set out in section 34 of the *Public Inquiries Act, 2009* and section 34 applies to the audit.

See: 2009, c. 33, Sched. 21, ss. 8 (45), 13 (2).

Costs

(13) The municipality or local board shall pay the auditor's costs of performing the audit. 2009, c. 33, Sched. 21, s. 8 (44).

Power of committee

- (14) The committee shall consider the report within 30 days after receiving it and may,
- (a) if the report concludes that the candidate appears to have contravened a provision of this Act relating to election campaign finances, commence a legal proceeding against the candidate for the apparent contravention;
 - (b) if the report concludes that the candidate does not appear to have contravened a provision of this Act relating to election campaign finances, make a finding as to whether there were reasonable grounds for the application. 2009, c. 33, Sched. 21, s. 8 (44).

Recovery of costs

(15) If the report indicates that there was no apparent contravention and the committee finds that there were no reasonable grounds for the application, the council or local board is entitled to recover the auditor's costs from the applicant. 2009, c. 33, Sched. 21, s. 8 (44).

Immunity

(16) No action or other proceeding for damages shall be instituted against an auditor appointed under subsection (7) for any act done in good faith in the execution or intended execution of the audit or for any alleged neglect or default in its execution in good faith. 2009, c. 33, Sched. 21, s. 8 (44).

Saving provision

(17) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

Compliance audit committee

81.1 (1) A council or local board shall, before October 1 of an election year, establish a committee for the purposes of section 81. 2009, c. 33, Sched. 21, s. 8 (44).

Composition

- (2) The committee shall be composed of not fewer than three and not more than seven members and shall not include,
- (a) employees or officers of the municipality or local board;
 - (b) members of the council or local board; or
 - (c) any persons who are candidates in the election for which the committee is established. 2009, c. 33, Sched. 21, s. 8 (44).

Term of office

(3) The term of office of the committee is the same as the term of office of the council or local board that takes office following the next regular election, and the term of office of the members of the committee is the same as the term of the committee to which they have been appointed. 2009, c. 33, Sched. 21, s. 8 (44).

Role of clerk or secretary

(4) The clerk of the municipality or the secretary of the local board, as the case may be, shall establish administrative practices and procedures for the committee and shall carry out any other duties required under this Act to implement the committee's decisions. 2009, c. 33, Sched. 21, s. 8 (44).

Costs

(5) The council or local board, as the case may be, shall pay all costs in relation to the committee's operation and activities. 2009, c. 33, Sched. 21, s. 8 (44).

By-law re contribution rebates

82. (1) A municipality may, by by-law, provide for the payment of rebates to individuals, corporations or trade unions who made contributions to candidates for office on the municipal council. 1996, c. 32, Sched., s. 82 (1); 2002, c. 17, Sched. D, s. 33 (1).

Same, resolution

(2) A local board may, by resolution, provide for the payment of rebates to individuals, corporations or trade unions who made contributions to candidates for office on the local board. 1996, c. 32, Sched., s. 82 (2); 2002, c. 17, Sched. D, s. 33 (2).

Same

(3) The by-law or resolution shall establish the conditions under which an individual, corporation or trade union is entitled to a rebate. 1996, c. 32, Sched., s. 82 (3); 2002, c. 17, Sched. D, s. 33 (3).

Same

(4) The by-law or resolution may provide for the payment of different amounts to different individuals, corporations or trade unions on any basis. 1996, c. 32, Sched., s. 82 (4); 2002, c. 17, Sched. D, s. 33 (4).

(5) Repealed: 2009, c. 33, Sched. 21, s. 8 (46).

Application, registration under s. 39.1

82.1 (1) Subject to subsection (2), the following provisions apply to an individual, corporation or trade union that is registered under section 39.1:

1. Section 66.
2. Subsection 67 (1), and subsection 67 (2), except paragraph 9.
3. Subsection 68 (1), except subparagraph 4 ii, and subsection 68 (2).
4. Sections 69 and 70.
5. Subsections 71 (1) and (3).
6. Sections 72 to 78.
7. Subsections 79 (1) and (2), subsection 79 (3), except clause (b), and subsections 79 (4) to (7).
8. Section 81.
9. Subsections 92 (1) to (4). 2009, c. 33, Sched. 21, s. 8 (47).

Modifications

(2) In the provisions referred to in subsection (1),

- (a) a reference to a candidate shall be read as a reference to an individual, corporation or trade union registered under section 39.1;
- (b) a reference to nomination shall be read as a reference to registration under section 39.1;
- (c) a reference to a person shall be read as a reference to an individual, corporation or

trade union;

(d) subsubparagraph B of subparagraph 66 (2) 2 iv shall be read as follows:

B. it is provided equally to all individuals, corporations or trade unions registered under section 39.1 with respect to a particular question;

(e) paragraphs 1 and 3 of subsection 68 (1) shall be read as follows:

1. The election campaign period begins on the day the individual, corporation or trade union files a notice of registration under section 39.1.

.....

3. Despite rule 2, the election campaign period ends on the day the by-law authorizing the question is repealed in accordance with clause 8.1 (1) (c) or the day the notice of registration is rejected under subsection 39.1 (5);

(f) subsection 71 (1) shall be read as follows:

(1) A contributor shall not make contributions exceeding a total of \$750 to any one individual, corporation or trade union registered under section 39.1 with respect to a particular question;

(g) subsection 79 (5) shall be read as follows:

(5) The surplus becomes the property of the municipality.

(h) subsection 92 (1) shall be read as if the reference to “sections 70 to 76” was a reference to sections “69 to 79”. 2000, c. 5, s. 38; 2009, c. 33, Sched. 21, s. 8 (48).

CONTROVERTED ELECTIONS

Application

83. (1) A person who is entitled to vote in an election may make an application to the Superior Court of Justice requesting that it determine,

- (a) whether the election is valid;
- (b) whether a person’s election to an office in the election is valid;
- (c) if a person’s election to an office is not valid, whether another person was validly elected or is entitled to the office;
- (d) if an election is not valid or a person’s election to an office is not valid, whether a by-election should be held. 1996, c. 32, Sched., s. 83 (1); 2002, c. 17, Sched. D, s. 34 (1).

Time

(2) The application shall be commenced within 90 days after voting day. 1996, c. 32, Sched., s. 83 (2).

Summary procedure

(3) The application shall be dealt with in a summary manner, without application records or factums. 1996, c. 32, Sched., s. 83 (3).

Service

(3.1) The applicant shall serve a copy of the application on the clerk or secretary of the municipality or local board to which the application relates within 5 days after the day the application was made under this section. 2002, c. 17, Sched. D, s. 34 (2).

No other avenue

(4) A proceeding to determine a matter described in clause (1) (a), (b), (c) or (d) may be commenced only under subsection (1). 1996, c. 32, Sched., s. 83 (4).

Compensation

(5) If the court orders that a by-election be held, it may make such order as it considers just against a person whose act or omission unlawfully affected the result of the election, for the compensation of candidates at that election. 1996, c. 32, Sched., s. 83 (5).

Effect of procedural irregularities

(6) The court shall not determine an election to be invalid if,

- (a) an irregularity described in subsection (7) occurred at the election but did not affect the result of the election; and
- (b) the election was conducted in accordance with the principles of this Act. 1996, c. 32, Sched., s. 83 (6).

Same

(7) Clause (6) (a) applies to the following irregularities:

- 1. An irregularity on the part of the clerk or in any of the procedures before voting day.
- 2. Failure to have a voting place open at the appointed location and time.
- 3. Non-compliance with a provision of this Act or of a regulation, by-law, resolution or procedure made, passed or established under this Act, dealing with voting, counting of votes or time requirements.
- 4. A mistake in the use of forms, whether prescribed or not. 1996, c. 32, Sched., s. 83 (7).

Disclaimer before application

84.(1) A person who has been elected to an office may, within 90 days after voting day and before an application questioning his or her election is made under clause 83 (1) (b), disclaim all right to the office. 1996, c. 32, Sched., s. 84 (1).

Manner of making disclaimer

(2) The disclaimer shall be made in writing and delivered to the clerk who conducted the election. 1996, c. 32, Sched., s. 84 (2).

Disclaimer after application

(3) A person whose election is questioned in an application under clause 83 (1) (b) may, within seven days after being served with the application, disclaim all right to the office. 1996, c. 32, Sched., s. 84 (3).

Manner of making disclaimer

(4) The disclaimer shall be made in writing and delivered to,

- (a) the court;
- (b) the applicant or his or her lawyer; and
- (c) the clerk who conducted the election. 1996, c. 32, Sched., s. 84 (4).

Duty of clerk

(5) When the clerk receives a disclaimer under subsection (1) or (3), he or she shall immediately communicate it to the council or to the secretary of the local board, as the case may

be. 1996, c. 32, Sched., s. 84 (5).

Resignation

(6)The disclaimer operates as a resignation and takes effect when the clerk receives it. 1996, c. 32, Sched., s. 84 (6).

Effect on liability for costs

(7)The disclaimer relieves the person making it from any liability for costs in an application under subsection 83 (1) that are incurred after the court receives the disclaimer. 1996, c. 32, Sched., s. 84 (7).

Substitution of applicant

85.(1)If the applicant is not qualified under subsection 83 (1) the court may, on any person's motion, order that another person who is so qualified be substituted as applicant, on any conditions the court considers proper. 1996, c. 32, Sched., s. 85 (1).

Time

(2)The motion may be made at any time before or during the hearing of the application, with leave of the court. 1996, c. 32, Sched., s. 85 (2).

Applicant's death

(3)If the applicant dies before the court hears the application, it shall be deemed to have been dismissed, unless the court makes an order under subsection (1), which applies with necessary modifications; the court may award costs of the application despite the deemed dismissal. 1996, c. 32, Sched., s. 85 (3).

Appeal

86.(1)An order made under subsection 83 (1) may be appealed to the Divisional Court. 1996, c. 32, Sched., s. 86 (1).

Power of Divisional Court

(2)The Divisional Court may make an order under subsection 83 (1) or, if it is necessary to take evidence, may order a new hearing. 1996, c. 32, Sched., s. 86 (2).

New hearing

(3)If the Divisional Court orders a new hearing,

- (a) it may order that the hearing be held by the judge who held the original hearing, or by another judge of the General Division; and
- (b) unless the Divisional Court orders otherwise, the order made on the new hearing may be appealed under subsection (1) as if it had been the first hearing. 1996, c. 32, Sched., s. 86 (3).

Matters pending appeal

87.(1)When an order is made under subsection 83 (1) determining a person's election to an office to be invalid, the person is entitled to sit and vote on the council or local board until,

- (a) the appeal period expires without an appeal being filed; or
- (b) if an appeal is filed, it is finally disposed of. 1996, c. 32, Sched., s. 87 (1).

Effect of subsequent disqualification

(2)Decisions of a council or local board in which a person described in subsection (1) has participated are unaffected even if it is determined that another person was validly elected or entitled to the office. 1996, c. 32, Sched., s. 87 (2).

Time for by-election

- (3) A by-election that would be required as a result of the order shall not be held until,
- (a) the appeal period expires without an appeal being filed; or
 - (b) if an appeal is filed, it is finally disposed of. 1996, c. 32, Sched., s. 87 (3).

ELECTION RECORDS

120-day retention period

88.(1) The clerk shall retain the ballots and all other documents and materials related to an election for 120 days after declaring the results of the election under section 55. 1996, c. 32, Sched., s. 88 (1); 2009, c. 33, Sched. 21, s. 8 (49).

Destruction of records

- (2) When the 120-day period has elapsed, the clerk,
- (a) shall destroy the ballots, in the presence of two witnesses; and
 - (b) may destroy any other documents and materials related to the election. 1996, c. 32, Sched., s. 88 (2); 2009, c. 33, Sched. 21, s. 8 (50).

Exception, recount

- (3) However, the clerk shall not destroy the ballots, documents or materials if,
- (a) a court orders that they be retained; or
 - (b) a recount has been commenced and not finally disposed of. 1996, c. 32, Sched., s. 88 (3).

Exception, election campaign finance documents

(4) Subsection (2) does not apply to documents filed under sections 78 and 79.1, which the clerk shall retain until the members of the council or local board elected at the next regular election have taken office. 1996, c. 32, Sched., s. 88 (4); 2009, c. 33, Sched. 21, s. 8 (51).

Public records

(5) Despite anything in the *Municipal Freedom of Information and Protection of Privacy Act*, documents and materials filed with or prepared by the clerk or any other election official under this Act are public records and, until their destruction, may be inspected by any person at the clerk's office at a time when the office is open. 1996, c. 32, Sched., s. 88 (5).

Exception

(6) However, a person is not entitled to inspect the contents of a ballot box unless authorized to do so by a court order. 1996, c. 32, Sched., s. 88 (6).

Extracts and copies

(7) A person inspecting documents under this section is entitled to make extracts from them and, on payment of the fee established by the clerk, to make copies of them. 1996, c. 32, Sched., s. 88 (7).

Fees for copies

(8) The fee established for copies shall not exceed the lowest rate the clerk charges for copies of other documents. 1996, c. 32, Sched., s. 88 (8).

Grounds for order

(9) The court presiding over a proceeding in respect of any matter relating to a provision of this Act may make an order under clause (3) (a) or subsection (6) if satisfied that the documents

are or may be required for the proceeding. 2009, c. 33, Sched. 21, s. 8 (52).

Electronic version available to public

(9.1) The clerk shall make the documents filed under sections 78 and 79.1 available at no charge for viewing by the public on a website on the Internet or in another electronic format as soon as possible after the documents are filed. 2009, c. 33, Sched. 21, s. 8 (53).

Restrictions

(10) No person shall use information obtained from public records described in subsection (5), except for election purposes. 1996, c. 32, Sched., s. 88 (10).

Voters' list

(11) A voters' list prepared under this Act shall not be,

- (a) posted in a public place; or
- (b) made available to the public in another manner that is prescribed. 1996, c. 32, Sched., s. 88 (11).

OFFENCES, PENALTIES AND ENFORCEMENT

Offences

89. A person is guilty of an offence if he or she,

- (a) votes without being entitled to do so;
- (b) votes more times than this Act allows;
- (c) votes in a voting place in which he or she is not entitled to vote;
- (d) induces or procures a person to vote when that person is not entitled to do so;
- (e) having appointed a voting proxy that remains in force, votes otherwise than by the proxy;
- (f) having been appointed a voting proxy, votes under the authority of the proxy when the elector has cancelled the proxy, is no longer entitled to vote or has died;
- (g) before or during an election, publishes a false statement of a candidate's withdrawal;
- (h) furnishes false or misleading information to a person whom this Act authorizes to obtain information;
- (i) without authority, supplies a ballot to anyone;
- (j) delivers to the deputy returning officer to be placed in a ballot box a paper other than the ballot the deputy returning officer gave him or her;
- (k) takes a ballot away from the voting place;
- (l) at an election, takes, opens or otherwise deals with a ballot, a ballot box, or a book or package of ballots without having authority to do so;
- (m) attempts to do something described in clauses (a) to (l). 1996, c. 32, Sched., s. 89; 2009, c. 33, Sched. 21, s. 8 (55).

Corrupt practices: certain offences committed knowingly

90.(1) If, when a person is convicted of an offence under section 89, the presiding judge finds that the offence was committed knowingly, the offence also constitutes a corrupt practice.

1996, c. 32, Sched., s. 90 (1); 2009, c. 33, Sched. 21, s. 8 (56).

Corrupt practices: bribery

(2) An offence described in subsection (3) constitutes a corrupt practice and a person who commits it is, on conviction, disqualified from voting at an election until the next regular election has taken place after the election to which the offence relates, in addition to being liable to any other penalty provided for in this Act. 2009, c. 33, Sched. 21, s. 8 (57).

Same

(3) No person shall, directly or indirectly,

- (a) offer, give, lend, or promise or agree to give or lend any valuable consideration, in connection with the exercise or non-exercise of an elector's vote;
- (b) advance, pay or cause to be paid money intending that it be used to commit an offence referred to in clause (a), or knowing that it will be used to repay money used in that way;
- (c) give, procure or promise or agree to procure an office or employment in connection with the exercise or non-exercise of an elector's vote;
- (d) apply for, accept or agree to accept any valuable consideration or office or employment in connection with the exercise or non-exercise of an elector's vote;
- (e) give, procure or promise or agree to procure an office or employment to induce a person to become a candidate, refrain from becoming a candidate or withdraw his or her candidacy. 1996, c. 32, Sched., s. 90 (3).

Corrupt practices by election officials: miscounting votes

(4) A deputy returning officer or other election official who knowingly miscounts the votes or knowingly prepares a false statement of the votes is guilty of an offence that constitutes a corrupt practice. 1996, c. 32, Sched., s. 90 (4); 2009, c. 33, Sched. 21, s. 8 (58).

Same: false ballot

(5) A deputy returning officer who knowingly places in a ballot box a paper that purports to be, but is not, a ballot capable of being used as such at an election, is guilty of an offence that constitutes a corrupt practice. 1996, c. 32, Sched., s. 90 (5); 2009, c. 33, Sched. 21, s. 8 (59).

Neglect of duty

(6) A clerk or other election official who wilfully fails to perform a duty imposed by this Act is guilty of an offence that constitutes a corrupt practice. 1996, c. 32, Sched., s. 90 (6); 2009, c. 33, Sched. 21, s. 8 (60).

Corrupt practice and ineligibility for office

91. (1) If a person is convicted of a corrupt practice under this Act, or of an offence under the *Criminal Code* (Canada) in connection with an act or omission that relates to an election to which this Act applies, then, in addition to any other penalty provided for in this Act,

- (a) any office to which the person was elected is forfeited and becomes vacant; and
- (b) the person is ineligible to be nominated for, or elected or appointed to, any office until the next two regular elections have taken place after the election to which the offence relates. 2009, c. 33, Sched. 21, s. 8 (61).

Exception

(2) However, if the presiding judge finds that the person committed the corrupt practice or

offence under the *Criminal Code* (Canada) without any intent of causing or contributing to a false outcome of the election, clause (1) (b) does not apply. 2009, c. 33, Sched. 21, s. 8 (61).

Election campaign finance offences

92. (1, 2) Repealed: 2009, c. 33, Sched. 21, s. 8 (62).

Additional penalty

(3) If the expenses incurred by or on behalf of a candidate exceed the amount determined for the office under section 76, the candidate is liable to a fine equal to the excess, in addition to any other penalty provided for in the Act. 1996, c. 32, Sched., s. 92 (3); 2009, c. 33, Sched. 21, s. 8 (63).

(4) Repealed: 2009, c. 33, Sched. 21, s. 8 (64).

Offences by candidate

(5) 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 80 (2), if he or she,

- (a) files a document under section 78 or 79.1 that is incorrect or otherwise does not comply with that section; or
- (b) incurs expenses that exceed what is permitted under section 76. 1996, c. 32, Sched., s. 92 (5); 2002, c. 17, Sched. D, s. 35 (1); 2009, c. 33, Sched. 21, s. 8 (65, 66).

Exception

(6) However, if the presiding judge finds that the candidate, acting in good faith, committed the offence inadvertently or because of an error in judgment, the penalties described in subsection 80 (2) do not apply. 1996, c. 32, Sched., s. 92 (6); 2002, c. 17, Sched. D, s. 35 (2); 2009, c. 33, Sched. 21, s. 8 (67).

Obstruction, etc.

93. No person shall obstruct a person making an investigation or examination under this Act or withhold, conceal or destroy anything relevant to the investigation or examination. 1996, c. 32, Sched., s. 93.

General offence

94. A person who contravenes any provision of this Act is guilty of an offence. 2009, c. 33, Sched. 21, s. 8 (68).

General penalty, individual

94.1 (1) An individual who is convicted of an offence under this Act is liable to the following penalties in addition to any other penalty provided for in this Act:

1. For any offence, a fine of not more than \$25,000.
2. For any offence other than a corrupt practice, the penalties described in subsection 80 (2).
3. For an offence under section 90, imprisonment for a term of not more than six months.
4. For any offence that the presiding judge finds that the individual committed knowingly, imprisonment for a term of not more than six months. 2009, c. 33, Sched. 21, s. 8 (68).

Same, corporation or trade union

(2) A corporation or trade union that is convicted of an offence under this Act is liable to a

fine of not more than \$50,000 in addition to any other penalty provided for in this Act. 2009, c. 33, Sched. 21, s. 8 (68).

Limitation period

94.2 (1) No prosecution for an offence under this Act in relation to a regular election shall be commenced after December 1 of the fourth year following the year in which the regular election was held. 2009, c. 33, Sched. 21, s. 8 (68).

Same

(2) No prosecution for an offence under this Act in relation to a by-election shall be commenced after December 1 of the year of the next regular election after the by-election. 2009, c. 33, Sched. 21, s. 8 (68).

REGULATIONS

Regulations

95.(1) The Minister may, by regulation,

- (a) fix the amount of the nomination filing fee referred to in clause 33 (2) (c) and specify the manner in which it shall be paid;
 - (a.1) prescribing a later deadline for the purpose of subsection 19 (1);
- (b) fix the percentage referred to in section 34;
- (c) prescribe forms;
 - (c.1) prescribe documents or classes of documents for the purpose of paragraph 1 of subsection 52 (1);
- (d) prescribe rules for the purpose of section 54 (counting of votes);
- (e) prescribe rules for the purpose of section 60 (manner of doing recounts);
- (f) prescribing a formula for the purpose of subsection 76 (4) (maximum amount of expenses);
- (g) prescribe anything referred to in this Act as being prescribed;
- (h) prescribe matters of provincial interest for the purpose of paragraph 2 of subsection 8.1 (2);
- (i) provide for transitional matters that, in the opinion of the Minister, are necessary or desirable for the conduct of the election with respect to a question under clause 8 (1) (b) or (c) at the 2000 regular election;
- (j) governing and clarifying the application of the provisions of this Act related to questions under clauses 8 (1) (b) and (c);
- (k) varying the application of the provisions of this Act related to questions under clauses 8 (1) (b) and (c) if, in the opinion of the Minister, it is necessary or desirable to do so to further the purposes of this Act. 1996, c. 32, Sched., s. 95 (1); 1999, c. 14, Sched. F, s. 6 (5); 2000, c. 5, s. 39 (1, 2); 2009, c. 33, Sched. 21, s. 8 (69).

General or particular

(2) A regulation made under clause (1) (a), (a. 1), (b), (c), (h), (i), (j) or (k) may be general or particular in its application. 2000, c. 5, s. 39 (3).

Regulation prevails

(2.1)A regulation made under clause (1) (i) applies despite any provision in this or any other public or private Act. 2000, c. 5, s. 39 (3).

Different formulas

(3)Under clause (1) (f), a different formula may be prescribed for candidates for the office of head of council of a municipality than is prescribed for candidates for other offices. 1996, c. 32, Sched., s. 95 (3).

Retroactivity

(4)A regulation made under clause (1) (h) may be made applicable with respect to a question in respect of which a by-law under clause 8 (1) (b) is passed before the regulation comes into force, if the vote has not been held on the question when the regulation comes into force. 1999, c. 14, Sched. F, s. 6 (7); 2000, c. 5, s. 39 (4).

Transitional regulations, municipal restructuring

96.(1)The Minister may, by regulation, provide for transitional matters that affect an election and arise out of the restructuring of a municipality or local board. 1996, c. 32, Sched., s. 96 (1).

Same

(2)A regulation made under subsection (1) may be made retroactive,

(a) in the case of a regular election, to January 1 in that year;

(b) in the case of a by-election, to the first day of the period described in paragraph 2 of subsection 65 (4). 1996, c. 32, Sched., s. 96 (2).

Same

(3)A regulation made under subsection (1) may be particular or general in its application. 1996, c. 32, Sched., s. 96 (3).

Same

(4)A regulation made under subsection (1) applies despite anything else in this or any other public or private Act. 1996, c. 32, Sched., s. 96 (4).

97. Omitted (enacts short title of this Act). 1996, c. 32, Sched., s. 97.

Français

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February 18, 2010

To: City Manager
Deputy City Managers
Division Heads

From: Janet Leiper, Integrity Commissioner
Ulli S. Watkiss, City Clerk

Re: **Election Year Policies**

Further to our presentation at the Division Heads meeting on January 20, 2010, we would like to provide you with further information and useful reference materials on the Election Year policies. Please share this information with your staff so that there is widespread corporate understanding of the City's obligations and restrictions under the *Municipal Elections Act, 2006*, By-laws and policies passed by Council, rules which govern candidates and Members of Council as well as policies which govern City staff.

The attached package includes:

1. Copy of the presentation to Division Heads meeting on January 20, 2010 in speaking notes format.
2. Summary of Election Year Policies with web links to these policies.
3. Copy of the Policy on Use of Corporate Resources during an Election Year.
4. Copy of the Policy on Employee Participation in Municipal Election Campaigns. (This policy is being updated by Human Resources.)
5. Copy of the Policy on Employees Seeking Election to Political Office.
6. Reference checklist – Considerations during an Election Year.
7. Questions and Answers – Guide to Staff during an Election Year

We are also attaching for your reference a copy of an Interpretation Bulletin which was distributed to Members of Council on January 4, 2010. We are currently working with the Lobbyist Registrar on clarifications with regard to lobbyists and their participation in election campaigns. We will share this information once it is finalized.

As we indicated during the Division Heads meeting, each scenario that your staff face may be slightly different. It is critical that they understand the principles behind the *Municipal Elections Act* and the corporate policies, and assess the impact of their actions and decisions on candidates, including those who are currently Councillors and the City. The goal is not to put the City at risk for providing a contribution to any candidate, who may or may not be a Councillor, nor to put a

candidate, who may also be a Councillor, at risk of being challenged for illegally receiving contributions from a municipality or a corporation.

If you have any questions regarding these policies, or require us to further discuss these with your senior management team, please contact Winnie Li, Director, Council and Support Services at 2-8676 or wli@toronto.ca. She will coordinate with the Integrity Commissioner re availability and scheduling.

(Original Memo Signed)

Janet Leiper
Integrity Commissioner

(Original Memo Signed)

Ulli S. Watkiss
City Clerk

Encl:/

c.c. Heads of Agencies, Boards, Commissions and Corporations
Winnie Li, Director, Council and Support Services
Bonita Pietrangelo, Director, Elections and Registry Services

ELECTION YEAR POLICIES

(distributed to Division Heads, January 20, 2010)

Use of Corporate Resources During an Election Year (See Attachment 1)

http://www.toronto.ca/councillors/pdf/use_of_corp-res-extract_revised.pdf

Section 4.7 of Councillor Expense Policy, approved by City Council at its meeting on July 16, 17 and 18, 2008.

Employee Participation in Municipal Election Campaigns (See Attachment 2)

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/65b7b2a823965ea085256944005b5a7c?OpenDocument>

Employee Seeking Election to Political Office (See Attachment 3)

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/16093429d6c1c208852573530064fbbb?OpenDocument>

Code of Conduct for Members of Council

http://www.toronto.ca/city_council/pdf/members_code_conduct.pdf

Section VII. ELECTION CAMPAIGN WORK

Members are required to follow the provisions of the *Municipal Elections Act, 1996*. No member shall use the facilities, equipment, supplies, services or other resources of the City (including Councillor newsletters and websites linked through the City's website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on City property during regular working hours unless permitted by City policy (e.g. all candidates meetings). No member shall use the services or persons for election-related purposes during hours in which those persons receive any compensation from the City.

Section XII. CONDUCT RESPECTING STAFF

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

Cont'd over...

ELECTION YEAR POLICIES

(distributed to Division Heads, January 20, 2010)

Code of Conduct for Members of Council cont'd

Section XV. FAILURE TO ADHERE TO COUNCIL POLICIES AND PROCEDURES

A number of the provisions of this *Code of Conduct* incorporate policies and procedures adopted by Council. More generally, members of Council are required to observe the terms of all policies and procedures established by City Council.

Complaint Protocol for Code of Conduct for Members of Council

<http://www.toronto.ca/integrity/pdf/2008-3-council.pdf>

Moratorium Date for Code of Conduct Complaints

8. City Council approve the inclusion of a provision in the Code of Conduct Complaint Protocol for Members of Council placing a moratorium on the filing of Code of Conduct complaints against Members seeking re-election from Labour Day in an election year until the new Council is sworn in. [Report to Executive Committee to move date to August 1, Civic Monday]

Donations to Council Member-Organized Community Events

12 j. Policy on Donations to Council Member-Organized Community Events:

In an election year, a Member of Council must not seek donations and sponsorships for any community event that has not been staged in the previous two years nor accept donations or stage any community event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Toronto.

A community event is considered to have been staged in the previous two years if it meets the following criteria:

- has a very similar, if not the same, event name/title
- takes place at approximately the same time
- has the same general purpose.

Authority: Council decision on Integrity Commissioner report to Executive Committee, EX22.6 "Report on Issues Arising Out of Operation of Members Code of Conduct and Complaint Protocol" at Council meeting of July 16, 17 and 18, 2008.

ELECTION YEAR RELATED POLICIES

Extract from Councillor Expense Policy:

4.7 Use of Corporate Resources during an Election Year

- Under the Municipal Elections Act, the City of Toronto cannot provide subsidy to any candidates in a municipal election campaign. Therefore, special conditions for expenses for Councillors apply during an election year.
- Corporate Resources is defined as any City resources, including the Councillor's office expense budget, City facilities, City staff and City programs and services.
- An election year begins on nomination day¹ (January 2) and ends on Election Day.
- Councillors will not be allowed to use the office expense budget for advertising, newsletters, and community expenses after the first Monday in September (Labour Day) of an election year, except for communications to constituents on Committee, Community Council and Council matters or emergency situations.
- The following guidelines apply to an acclaimed Councillor or a Councillor not seeking re-election, as well as all Councillors who seek re-election.
- Nothing in this Policy shall preclude a Councillor from performing their job as a Councillor, nor inhibit them from representing the interests of the constituents who elected them.

a. Policies Applicable During Entire Election Year

- Corporate resources and funding may not be used for any election-related purposes, with the exception that community groups be extended access to City facilities for the explicit purpose of conducting all-candidates meetings, including all-candidates meetings for municipal, provincial and federal elections, at a nominal fee of \$1.00, and all registered candidates within each specific category must be invited to attend such meetings.
- Councillors' staff may not canvass or actively work in support of a municipal, provincial or federal candidate or party during normal working hours unless they are on a leave of absence without pay, lieu time, float day or vacation leave.

¹ For 2010, Nomination Day is Monday, January 4, 2010.

ELECTION YEAR RELATED POLICIES

Extract from Councillor Expense Policy:

- Councillors may not use their Constituency Office for any election-related purposes, which include displaying of any campaign related signs in the window or on the premises, as well as displaying any election-related material in the office.
- The Office Expense Budget for Councillors for the period January 1 to Election Day in a municipal election year be restricted to 11/12ths of the approved Office Expense Budget with the provision that subsequent to election day:
 - new Councillors be allocated a budget equal to 1/12th of the approved budget amount for the month of December; and
 - re-elected Councillors have available to them the balance of funds remaining as of Election Day.
- Councillors may not deliver any unsolicited material outside their existing ward where the printing and/or distribution costs are paid by the City. Care should be taken to ensure that the mailing of newsletters be restricted to the member's ward only (with accommodation made for the normal spillage associated with Canada Post postal walks.) This policy to be effective not only during an election year but at all times.
- Councillors may not:
 - Print or distribute any material paid by City funds that illustrates that a Councillor or any other individual is registered in any election or where they will be running for office;
 - Profile (name or photograph), or make reference to, in any materials paid by City funds, any individual who is registered as a candidate in any election;
 - Print or distribute any material using City funds that makes reference to, or contains the names or photographs, or identifies registered candidates for municipal elections; and that Minutes of City Council and Committee meetings be exempt from this policy;
- Councillors are responsible to ensure that the content of any communication material, including printed material such as newsletters, advertising etc., funded by the city for the operation of each Councillor's Office, is not directly election-related.

ELECTION YEAR RELATED POLICIES

Extract from Councillor Expense Policy:

- Web sites or domain names that are funded by the City of Toronto may not include any election-related campaign material.
- The City Clerk or her designate shall be responsible at all times for setting of committee agendas, in consultation with the Chair of the Standing Committee.
- Councillors may not use the City's voice mail system to record election related messages.
- Councillors may not use the services of any staff in the City of Toronto to assist in any communication activity related to the preparation or distribution of campaign related materials or events.
- No photographic or video materials may be created by City staff for use in any campaign materials.
- The City of Toronto logo will not be used in any campaign related materials.

b. Discontinued Activities

The following activities be discontinued for Councillors after the first Monday in September (Labour Day) of an election year:

- No advertising paid for by the City of Toronto shall contain the name of a Councillor or the Mayor unless consistent with their duties as an elected official.
- Printing and general distribution of newsletters unless so directed and approved by Council.
- The ordering of stationery.
- The ordering of office furniture and furnishings, except those of an emergency nature, as well as no movement of furniture and furnishings.
- Councillors will not enter into joint ventures using city funds outside their existing wards, unless specifically approved by Council. At all other times, a signed agreement between Ward Councillors is required.
- Councillors will not distribute media releases using the City of Toronto media relations or departmental communications networks or distribution

ELECTION YEAR RELATED POLICIES


Extract from Councillor Expense Policy:

systems unless such a release is considered to be consistent with their duties as an elected official.

- The City of Toronto media clippings package will be made available to the general public through copies provided for viewing at the central library and at the counter of all civic centres.
- Community expenses, including community events, tickets to events and functions, and gifts and promotions.

Authority: Executive Committee Report No. 22, Clause No. 7,
adopted as amended, by City of Toronto Council on July 15, 16 and 17, 2008

[Return to Policies](#)

<p>Human Resources Policies Employee Participation in Municipal Election Campaigns</p> <p>Category: Working Environment</p>	
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Policy Statement The purpose of this policy is to maintain the neutrality of the public service. Employees must ensure that any involvement in a municipal election campaign does not adversely affect their ability to perform their duties as employees of the City of Toronto. Restrictions address the need for employees to be and to appear impartial.

Application This policy applies to all city employees.

Conditions No employee may canvass or work in support of a municipal candidate during working hours. Working hours does not include vacation time or time on leaves of absence. The following staff should not take part in municipal campaign activities:

- City Manager
- Deputy City Managers
- Statutory and By-Law Officials
- Executive Directors/General Managers/Division Heads
- Directors and other senior staff in positions of influence regarding programs and services who have direct contact with members of Council
- Secretariat staff in direct contact with members of Council in the operation of Council and standing committees and who are working on the election for the City Clerk
- Elections staff

Staff in the above mentioned restricted group are not prohibited from voting or attending All-Candidates meetings.

All other employees are not restricted from engaging in campaign activities outside working hours.

Staff who are working on behalf of a municipal candidate may not use any of the city's resources (e.g. office equipment, supplies etc.) for campaigning activities at any time before or during the election.

No employee shall wear his/her uniform while campaigning for a municipal candidate or use their title or position within the City in a way that would lead a member of the public to infer that the City is endorsing the candidate.

No employee shall wear clothing or buttons that advertise any candidate, at work.

Implementation If employees are unsure about the appropriateness of their participation in election activities they should consult with their general managers/executive directors/division heads or designates for clarification.

Approved by City Council (Clause 21, Report No. 16 Administration Committee)

Date Approved

August 4, 2000

Related Information

[Council Code of Conduct](#)

In the context of an election campaign, no member shall use the services of persons during hours in which those persons receive any compensation from the city. No member shall compel staff to engage in partisan political activities or subject staff to threats or discrimination for refusing to engage in such activities.

[Human Rights and Anti-Harassment policy](#)

Every person has a right to equal treatment with respect to employment with the city, without discrimination or harassment because of prohibited grounds that include political affiliation.

See also: [Conflict of Interest](#), [Employees Seeking Election to Political Office](#)



[Go back](#)

Return to Policies

<p>Human Resources Policies Employees Seeking Election to Political Office</p> <p>Category: Absence From Work</p>	
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Policy Statement	The City of Toronto gives leaves to employees who are running for elected political office.
Application	All City of Toronto employees.
Definitions	Political Office: An elected office of a school board, municipal, regional, provincial or federal government.
Conditions	<p><i>Employees seeking election to City of Toronto Council</i></p> <p>An employee of the City of Toronto is eligible to be a candidate for and to be elected as a member of the City of Toronto Council.</p> <p>Any employee who is a candidate for office for the City of Toronto Council must take an unpaid leave of absence. The leave begins before the employee files his/her nomination papers and ends on voting day.</p> <p>The employee shall give his/her manager written notice at least two weeks in advance of his or her intention to take unpaid leave.</p> <p>These conditions are mandated by subsections 30(1), (2) and (3) of the <i>Municipal Elections Act, 1996</i>.</p> <p><i>Employees seeking election to other municipal councils and school boards</i></p> <p>An employee of the City of Toronto is eligible to be a candidate for and to be elected as a member of any school board or of any municipal council other than the City of Toronto Council.</p> <p>If an employee needs time off work, he/she may use available vacation or lieu time as well as unpaid time.</p> <p>If the employee intends to take unpaid leave, he/she must give his/her manager written notice at least two weeks in advance.</p> <p><i>Employees seeking election to provincial and federal office</i></p> <p>An employee of the City of Toronto is eligible to be a candidate for and to be elected as a member of the provincial or federal parliament.</p> <p>If an employee needs time off work, he/she must take an unpaid leave of absence. In this instance, the leave would begin before he/she files his/her nomination papers and ends on voting day.</p> <p>The employee shall give his/her manager written notice at least two weeks in advance of his or her intention to take unpaid leave.</p> <p><i>Employment Status after election</i></p> <p>If the employee is elected to the City of Toronto Council, he or she shall be</p>

deemed to have resigned from employment immediately before making the declaration of office referred to in subsection 186 of the *City of Toronto Act, 2006*.

If an employee is elected to another municipal council or school board that employee is not required to resign but is subject to the City's Conflict of Interest and other employment policies and performance expectations, in addition to any external codes, policies, rules or regulations that may apply to them as elected officials.

If an employee is elected to provincial or federal office he/she is required to resign.

Use of corporate resources

Corporate resources and funding may not be used for any election campaign purposes.

Under the terms of the Conflict of Interest Policy, employees may not use, or permit the use of, items of City property, facilities, equipment, supplies or other resources for activities not associated with their work.

Under the terms of the City's Policy on Employee Participation in Municipal Election Campaigns, staff who are working on behalf of a municipal candidate may not use any of the City's resources (e.g. office equipment, supplies etc.) for campaigning activities at any time before, during or after the election. This prohibition also applies to the City employee if he/she is the candidate.

City staff who are on leave seeking election to any elected office cannot use, or act in a manner that could reasonably give rise to a presumption that they are using, any City resources during their campaign period. All access to City resources, including security, parking, voice-mail, and computer access will be temporarily disabled during the employee's leave.

Salary & Benefits

As mandated by subsection 30(3.1) of the *Municipal Elections Act, 1996*, any employee who is a candidate for office for the City of Toronto Council and is required to take an unpaid leave, is entitled to be paid out any vacation pay or overtime pay owing to the employee, during the period of the unpaid leave of absence. Employees wishing to have their vacation and lieu time paid out must give Payroll advance notice.

If an employee wants to maintain pension service credits he/she must pay both the employee's and City's pension contributions for the duration of the leave.

Non-union employees

Employees do not receive salary or benefits during an unpaid leave taken by the employee while seeking election to political office. If they wish to continue benefits coverage, they are required to pay both the City's and employee's health and insurance benefit premiums.

Sick pay

No sick time is accrued during the leave.

Vacation

Service is not affected by this leave for vacation entitlement purposes.

Performance Pay

Employees receive no across the board (ABI) increase or performance pay increase while on unpaid leave of absence. When the employee returns, he/she receives a prorated performance pay increase for the time worked prior to

his/her unpaid leave based on his/her performance. Payroll adjusts the employee's pay to reflect any missed ABI increase(s), effective on the employee's return date.

Bargaining Unit employees

Bargaining unit employees' salary, benefits coverage, service, seniority, sick pay and vacation for unpaid leaves of absence are treated in accordance with their respective collective agreements.

Implementation

An employee who is taking an unpaid leave of absence shall submit a Leave of Absence form at least two weeks before the leave begins to his/her manager. The reason for the leave of absence, i.e. seeking election to political office, shall be stated in the Comments section. The employee's manager submits the form to the Payroll Manager's attention in order to place the employee on an inactive status. Payroll addresses any payment and pension issues with the employee.

Approved by

Executive Management Team

Date Approved

July 29, 1999

Revised

September 7, 2007

Related Information

[Municipal Elections Act, 1996](#)

[City of Toronto Act, 2006](#)

[Conflict of Interest](#)

[Employee Participation in Municipal Election Campaigns](#)

[Use of Corporate Resources during an Election Year](#)

[Go back](#)



Reference checklist for City of Toronto staff
Considerations during an Election Year
January 20, 2010

- ✓ Has the event been organized in previous years?
- ✓ What is the nature of the event?
 - City event?
 - Councillor event?
 - Joint event?
 - Community event?
- ✓ What is the role of the Councillor in the event?
- ✓ Why do you need to include the name of the Councillor in the media release?
- ✓ Is there a legitimate business reason for the Councillor to be referenced in the media release or the promotional material?
- ✓ By including the name of the Councillor or quoting the Councillor, will the City be perceived to be making a contribution to a candidate?
- ✓ If challenged in court, can the City make a defensible argument re its action?
- ✓ Will this lead to Councillors who are also candidates as being perceived to be receiving a contribution from a corporation or from a government?



Questions and Answers – Guide to Staff during an Election Year

The following Q & A provides further clarification to City staff re election year policies. Staff should always consult and refer to the relevant policies for detailed guidelines.

- Q 1 A City division traditionally partners with the local ward Councillor to organize a summer community BBQ. The Councillor would solicit and receive donations from neighbourhood businesses to support the event. Can the event still go forward? Can the Councillor continue to seek donations? Can the event flyer reference the Councillor?**

Once the Councillor has filed nomination papers to be a candidate in the Election, he or she cannot solicit or accept any donations for events. If the event is organized jointly with a City division, division staff can seek donations without the involvement of the Councillor.

A joint event must be organized prior to Labour Day. If it is a program event and not a joint event, then there is no time limit of Labour Day.

If the event is a joint event, with the Councillor picking up some event costs from his/her office budget, then the flyer for the event can reference the name of the Councillor.

If the event is a program event, then you need to consider why you should reference the name of the Councillor in the flyer. Could it be called the Ward XX event?

- Q2 I operate a Long Term Care Home and candidates want to visit my home, are they allowed? Is this considered a use of corporate resource, as the Home is owned and operated by the City? Does the same apply for Shelters run by the City?**

The *Residential Tenancies Act* states that no landlord shall restrict reasonable access to a residential complex by candidates for election to any office at the federal, provincial or municipal level, or their authorized representatives, if they are seeking access for the purpose of canvassing or distributing election material. (2006, c.17, s.28) This Act takes precedence over the City policy on 'Use of Corporate Resources during an Election Year'. Therefore, all candidates should be allowed to visit LTC homes and have access to its residents.

However, public spaces in the homes, such as lunch halls, etc. should not be used for campaign meetings, other than use by community groups for all-candidate meetings.

The *Residential Tenancies Act* does not apply to City-run Shelters so candidates

may not have access to these premises for the purpose of canvassing or distributing election material.

Q3 I have a staff person who is on a leave of absence with full pay and benefits to work in the Union. The Union is supporting a particular candidate in the election. Can this staff work on the campaign while he is working with the union?

During leave of absences to work full-time in the union, City divisions continue to pay full salary and benefits of these employees and they continue to be City of Toronto employees. In accordance with the policy on 'Employee Participation in Municipal Election Campaigns', such staff cannot work on the election campaign during work hours, even though he/she is working at the Union office.

Q4 Does the 'Use of Corporate Resources during an Election Year' policy apply to Agencies, Boards and Commissions also?

The policy speaks to City of Toronto resources. Agencies, boards and commissions are local boards and many of them, including all city boards, also are agents of the City and are therefore prohibited by the *Municipal Elections Act* from making political campaign contributions, the same as the City. Some local boards may have their own governing by-laws and policies, but they must act in accordance with the *Municipal Elections Act* and be guided by City policies.

Corporations wholly-owned by the City (Hydro, TCHC, Toronto Port Lands, Build Toronto, Invest Toronto) are not agents of the City and technically can establish their own policies and practices, unless specifically directed otherwise by Council. Both Build Toronto and Invest Toronto, for instance, are specifically prohibited from making any charitable donations including campaign contributions. Resources of City-owned corporations may be viewed by the general public as resources indirectly owned by the City and therefore should be guided by the principles that govern City policies in this regard.

Q5 Do the rules apply also to advisory committees comprised of citizen appointees, such as the Toronto Preservation Board, Museum Boards or other advisory committees?

Council appointed committees are creatures of the City Council and are entirely considered part of City government. When the persons appointed to these committees are acting in their capacity as members of these committees, they are bound by the same requirements in the *Municipal Elections Act*. However, citizens serving in such capacity may provide personal contributions to candidates using their own personal resources.

Q6 Does the 'Use of Corporate Resources during an Election Year' policy cover all City properties? How about Nathan Phillips Square and civic squares at the civic centres, and City-operated properties such as Union Station, St. Lawrence Market, St. Lawrence Centre of the Arts etc.?

City-operated facilities will be bound by the policy on 'Use of Corporate Resources during an Election Year', including arenas, community centres, parks, swimming pools, libraries, Union Station, St. Lawrence Market, Exhibition Place, etc. City-owned properties leased to private enterprise are not subject to these rules. See the response to Q2 if the City property is a Long Term Care Home or City shelter.

Q7 I am a Division Head at the City and have received a call from a candidate running for City Council who would like to meet with me to discuss my Division to get a better sense of what we do? Can I meet with the candidate? What information can I give them?

While the policies on 'Employee Participation in Municipal Election Campaigns' and the 'Use of Corporate Resources during an Election Year' do not speak directly about City staff interaction with candidates, the following should be considered:

- Does this meeting with a particular candidate provide the impression that the Division Head is supporting one particular candidate? The policy on 'Employee Participation in Municipal Election Campaigns' states that division heads should not take part in municipal campaign activities.
- Could this meeting with a particular candidate be construed as the City providing a contribution to this candidate, i.e. by providing information that is not available to the public or to other candidates?

In general, candidates' requests for information should be handled in the same way as requests for information for a member of the public. Divisions should look to their Routine Disclosure Policies for guidance. See http://www.toronto.ca/cap/routine_disclosure_plan.htm

Consider whether the requested information can be provided through public documents or website links and use this method whenever possible.

Keep in mind that if you meet with one candidate you must be prepared to meet with all candidates who may ask for information. Information provided to one candidate should be available to all candidates.

It is recommended that you create a 'fact sheet' of publicly available information on key matters that can be shared with any interested candidate.





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INTERNET LINKS

- [Public elections site](#)

Election Services - Staff participation in a candidate's election campaign

- [Staff participation in a candidate's election campaign](#)
- [For those staff in the restricted category only](#)

Staff participation in a candidate's election campaign

Q. Can I canvass for a candidate?

A. Staff, with the exception of those staff on the restricted category, can canvass for a candidate with some limitation. You cannot wear a City uniform. You cannot identify yourself as a City employee. You cannot do it during your regular work hours.

Q. Can I work on a candidate's campaign?

A. Staff, with the exception of those staff on the restricted category, can work on a candidate's campaign; however it cannot be done during work hours. You can do it after hours, on vacation or while on a leave of absence. You cannot use any City resources (e.g. City's e-mail system, phones, fax etc).

Q. Can I attend all candidates meetings and ask questions?

A. Yes. But in asking your question you cannot wear a City uniform, do it on City time or identify yourself as a City employee.

Q. Who is prohibited from participating in elections?

A. Those who fall within the "restricted category" are: City Manager, Deputy City Managers, statutory and bylaw officials, executive directors, general managers, directors and other senior staff in positions of influence regarding programs/services who have direct contact with members of Council. As well, Secretariat staff who have direct contact with members of Council in the operation of Council and standing committees and are working on the election for the City Clerk; and all Election Services staff are not permitted to work on an election campaign.

Q. Can I have a campaign sign on my lawn?

A. Yes, with the exception of those staff on the restricted category.

Q. Can I donate money to a candidate?

A. Yes, with the exception of those staff on the restricted category. Keep in mind that donations to candidates are a matter of public record.

Q. I am working on a campaign (Mayor/Councillor). Can I still work on Election Day?

A. To ensure the integrity of the electoral process, staff working on a Mayoralty/Councillor campaign are prohibited from working on Election Day.

Q. If I am asked to provide a briefing on my particular area of responsibility to one or more of the candidates for the upcoming election do I provide said briefing?

A. In general, candidates' requests for information should be handled in the same way as requests for information for a member of the public. Divisions should look to their Routine Disclosure Policies for guidance.

Consider whether the requested information can be provided through public documents or website links and use this method whenever possible.

For more information or questions, please call Election Services at 416-338-1111.

City's policy on Employee Participation in Municipal Election Campaigns.

For those staff in the restricted category only

Q. What Election related activities may I participate in?

A. Those individuals in the restricted category may only participate in the process of voting and attending all candidates meetings. All other election activities are to be avoided.

Q. May I have a campaign sign on my lawn?

A. No. Those in the restricted category are restricted from having a sign on their lawn.

Q. What if another member of my family wishes to have a sign on our property?

A. The City policy cannot be extended to other family members and would not be enforceable. Other family members could place signs on your property for any prospective candidate they choose.

Q. Can I donate money to a candidate?

A. No. Those on the restricted category should not donate money to any candidate's campaign. Keep in mind that donations are a matter of public record.

Q. Do these restrictions also apply to either Provincial or Federal election campaigns?

A. No. The current City policy only applies to Municipal elections.

For more information or questions, please call Election Services at 416-338-1111.

City's policy on [Employee Participation in Municipal Election Campaigns](#).

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**CODE OF CONDUCT FOR MEMBERS OF COUNCIL
CITY OF TORONTO**

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AUTHORITY

Consolidated Code of Conduct for Members of Council, including:

Historic

- (1) “Code of Conduct for Members of Council Inclusive of Lobbyist Provisions” adopted, as amended, by City Council on September 28 and 29, 1999 (Clause 2 of Report 5 of the Administration Committee) and as amended by:
 - (a) “Amendments to Code of Conduct for Members of Council” approved by City Council on September 25, 26 and 27, 2006 (Clause 26 of Report 7 of the Policy and Finance Committee) that under Council action (2) came into force on February 8, 2007 following City Council’s approval on February 5, 6, 7 and 8, 2007 of the appeal mechanisms and legal support program in CC2.5 “Amendments to the Code of Conduct Complaint Protocol under Members Code of Conduct”; and
 - (b) “Report on Congruence between Lobbying By-law and Obligations under Members Code of Conduct” approved by Council on April 28 and 29, 2008 (EX 19.7, motions 1 and 2).

Current

- (2) This Code of Conduct for Members of Council was amended and adopted by City Council on July 15, 16 and 17, 2008 (2008 EX22.6, as amended by Council).

PREAMBLE

Improving the quality of public administration and governance can be achieved by encouraging high standards of conduct on the part of all government officials. In particular, the public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the City of Toronto’s reputation and integrity.

To these ends, during its first term as a unified City, the City of Toronto, as one of several initiatives, adopted a Code of Conduct for Members of Council. Subsection 157(1) of the *City of Toronto Act, 2006* now requires the City to establish codes of conduct for members of Council. In response to this requirement, the City has revised and updated the original *Code of Conduct*. It is intended to supplement and be compatible with the laws governing the conduct of members.

The key statements of principle that underline the *Code of Conduct* are as follows:

- Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner;

- Members of Council should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- Members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and
- Members of Council shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament and Ontario Legislature, and the laws and policies adopted by City Council.

I. DEFINITIONS

In the *Code of Conduct*, the terms “child”, “parent” and “spouse” have the same meanings as in the *Municipal Conflict of Interest Act*:

“child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

“parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child; and

“spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

II. STATUTORY PROVISIONS REGULATING CONDUCT

This *Code of Conduct* operates along with and as a supplement to the existing statutes governing the conduct of members. The following provincial legislation governs the conduct of members of Council:

- the *City of Toronto Act, 2006*, and Chapter 27, Council Procedures, of the Municipal Code (the Council Procedures By-law) passed under section 189 of that Act;
- the *Municipal Conflict of Interest Act*;
- the *Municipal Elections Act, 1996*; and
- the *Municipal Freedom of Information and Protection of Privacy Act*.

The *Criminal Code* of Canada also governs the conduct of members of Council.

III. APPLICATION

This *Code of Conduct* applies to all members of Council (including the Mayor).

IV. GIFTS AND BENEFITS

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.

For these purposes, a fee or advance paid to or a gift or benefit provided with the member's knowledge to a member's spouse, child, or parent, or to a member's staff that is connected directly or indirectly to the performance of the member's duties is deemed to be a gift to that member.

The following are recognized as exceptions:

- (a) compensation authorized by law;
- (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law, in the case of members running for office;
- (d) services provided without compensation by persons volunteering their time;
- (e) a suitable memento of a function honouring the member;
- (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity;
- (g) food and beverages consumed at banquets, receptions or similar events, if:
 - 1. attendance serves a legitimate business purpose;
 - 2. the person extending the invitation or a representative of the organization is in attendance; and
 - 3. the value is reasonable and the invitations infrequent;
- (h) communication to the offices of a member, including subscriptions to newspapers and periodicals; and
- (i) sponsorships and donations for community events organized or run by a member or a third party on behalf of a member, subject to the limitations set out in the Policy on Council Member-Organized Community Events.

Except for category (c) (political contributions allowable by law), these exceptions do not apply where such gifts or benefits are provided by lobbyists or their clients or employers (as defined or described in Municipal Code Chapter 140, Lobbying). For these purposes, a lobbyist is an individual, organization or business that:

- [i] is lobbying or causing the lobbying of any public office holder at the City, a local board (restricted definition) or the board of health;
- [ii] the member knows is intending to lobby, having submitted or intending to submit a registration to the Lobbyist Registrar for approval to communicate on a subject matter; or
- [iii] is maintaining an active lobbyist registration with the City even though not having a current active subject matter registered with the lobbyist registry.

In the case of categories (b), (e), (f), (g), (h) and (i), if the value of the gift or benefit exceeds \$300, or if the total value received from any one source during the course of a calendar year exceeds \$300, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Integrity Commissioner.

The disclosure statement must indicate:

1. the nature of the gift or benefit;
2. its source and date of receipt;
3. the circumstances under which it was given or received;
4. its estimated value;
5. what the recipient intends to do with any gift; and
6. whether any gift will at any point be left with the City.

Any disclosure statement will be a matter of public record.

On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the member. In the event that the Integrity Commissioner makes that preliminary determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the City.

Except in the case of categories (a), (c), (f) and (i), a member may not accept a gift or benefit worth in excess of \$500 or gifts and benefits from one source during a calendar year worth in excess of \$500.

V. CONFIDENTIAL INFORMATION

Confidential information includes information in the possession of, or received in confidence by the City that the City is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (often referred to as "MFIPPA"), or other legislation. Generally, the

Municipal Freedom of Information and Protection of Privacy Act restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

The *City of Toronto Act, 2006* allows information that concerns personnel, labour relations, litigation, property acquisitions, the security of the property of the City or a local board, and matters authorized in other legislation, to remain confidential. For the purposes of the *Code of Conduct*, “confidential information” also includes this type of information.

No member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.

Nor shall members use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. As one example, no member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.

Under the Procedures By-law (passed under section 189 of the *City of Toronto Act, 2006*), a matter that has been discussed at an in-camera (closed) meeting remains confidential. No member shall disclose the content of any such matter, or the substance of deliberations, of the in-camera meeting until the Council or committee discusses the information at a meeting that is open to the public or releases the information to the public.

The following are examples of the types of information that a member of Council must keep confidential:

- items under litigation, negotiation, or personnel matters;
- information that infringes on the rights of others (e.g., sources of complaints where the identity of a complainant is given in confidence);
- price schedules in contract tender or Request For Proposal submissions if so specified;
- information deemed to be “personal information” under the *Municipal Conflict of Interest Act*; and
- statistical data required by law not to be released (e.g. certain census or assessment data).

Members of Council should not access or attempt to gain access to confidential information in the custody of the City unless it is necessary for the performance of their duties and not prohibited by Council policy.

VI. USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES

No member of Council should use, or permit the use of City land, facilities, equipment, supplies, services, staff or other resources (for example, City-owned materials, websites, Council transportation delivery services and member of Council expense budgets) for activities other than the business of the Corporation. Nor should any member obtain personal financial gain from the use or sale of City-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the City.

VII. ELECTION CAMPAIGN WORK

Members are required to follow the provisions of the *Municipal Elections Act, 1996*. No member shall use the facilities, equipment, supplies, services or other resources of the City (including Councillor newsletters and websites linked through the City's website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on City property during regular working hours unless permitted by City policy (e.g., all candidates meetings). No member shall use the services of persons for election-related purposes during hours in which those persons receive any compensation from the City.

VIII. IMPROPER USE OF INFLUENCE

No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.

Examples of prohibited conduct are the use of one's status as a member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.

For the purposes of this provision, "private advantage" does not include a matter:

- (a) that is of general application;
- (b) that affects a member of Council, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- (c) that concerns the remuneration or benefits of a member of Council.

IX. BUSINESS RELATIONS

No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the City except in compliance with the terms of the *Municipal Conflict of Interest Act*.

A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

X. CONDUCT REGARDING CURRENT & PROSPECTIVE EMPLOYMENT

No member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the City.

XI. CONDUCT AT COUNCIL AND COMMITTEE MEETINGS

Members shall conduct themselves with decorum at Council and committee meetings in accordance with the provisions of Chapter 27, Council Procedures, of the Municipal Code (the Council Procedures By-law).

XII. CONDUCT RESPECTING STAFF

Only Council as a whole has the authority to approve budget, policy, Committee processes and other such matters. Accordingly, members shall direct requests outside of Council-approved budget, process or policy, to the appropriate Standing Committee.

Under the direction of the City Manager, staff serve the Council as a whole, and the combined interests of all members as evidenced through the decisions of Council. Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of staff.

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles include dealing with constituents and the general public, participating as Standing Committee members, participating as Chairs of Standing Committees, and participating as Council representatives on agencies, boards, commissions and other

bodies. Similarly, there are distinct and specialized roles expected of City staff in both the carrying out of their responsibilities and in dealing with the Council.

XIII. CONDUCT RESPECTING LOBBYISTS

Lobbying of public office holders is a permissible but regulated activity in the City of Toronto. Lobbying is defined and regulated by Municipal Code Chapter 140, Lobbying (the City's lobbying by-law inclusive of the Lobbyist Code of Conduct).

Members of Council and their staff are public office holders. As a matter of general principle, as public office holders, members of Council should be familiar with the terms of this lobbying by-law inclusive of the Lobbyist Code of Conduct (Chapter 140).

Specifically, members of Council should not engage knowingly in communications in respect of the list of subject matters contained in the definition of "Lobby" as set out in Chapter 140 with a person who is not registered as required by Chapter 140. Members of Council should also not knowingly communicate with a registered lobbyist who is acting in violation of Chapter 140.

If a member of Council is or at any time becomes aware that a person is in violation of Chapter 140, the member should either refuse to deal with the lobbyist or, where appropriate, either terminate the communication with the lobbyist at once or, if in the member's judgment it is appropriate to continue the communication, at the end of the communication, draw that person's attention to the obligations imposed by Chapter 140.

A member should report any such violation or attempted violation of Chapter 140 to the Lobbyist Registrar unless the member believes in good faith that the violation in communicating or attempting to communicate with the member was inadvertent or insignificant.

XIV. DISCREDITABLE CONDUCT

All members of Council have a duty to treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The *Ontario Human Rights Code* applies and if applicable, the City's *Human Rights and Anti-harassment Policy*, and *Hate Activity Policy*.

XV. FAILURE TO ADHERE TO COUNCIL POLICIES AND PROCEDURES

A number of the provisions of this *Code of Conduct* incorporate policies and procedures adopted by Council. More generally, members of Council are required to observe the terms of all policies and procedures established by City Council.

This provision does not prevent a member of Council from requesting that Council grant an exemption from a policy.

XVI. REPRISALS AND OBSTRUCTION

Members of Council should respect the integrity of the *Code of Conduct* and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of her or his responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications.

XVII. ACTING ON ADVICE OF INTEGRITY COMMISSIONER

Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner.

XVIII. COMPLIANCE WITH THE CODE OF CONDUCT

Members of Council are accountable to the public through the four-year election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the *Criminal Code* of Canada or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*.

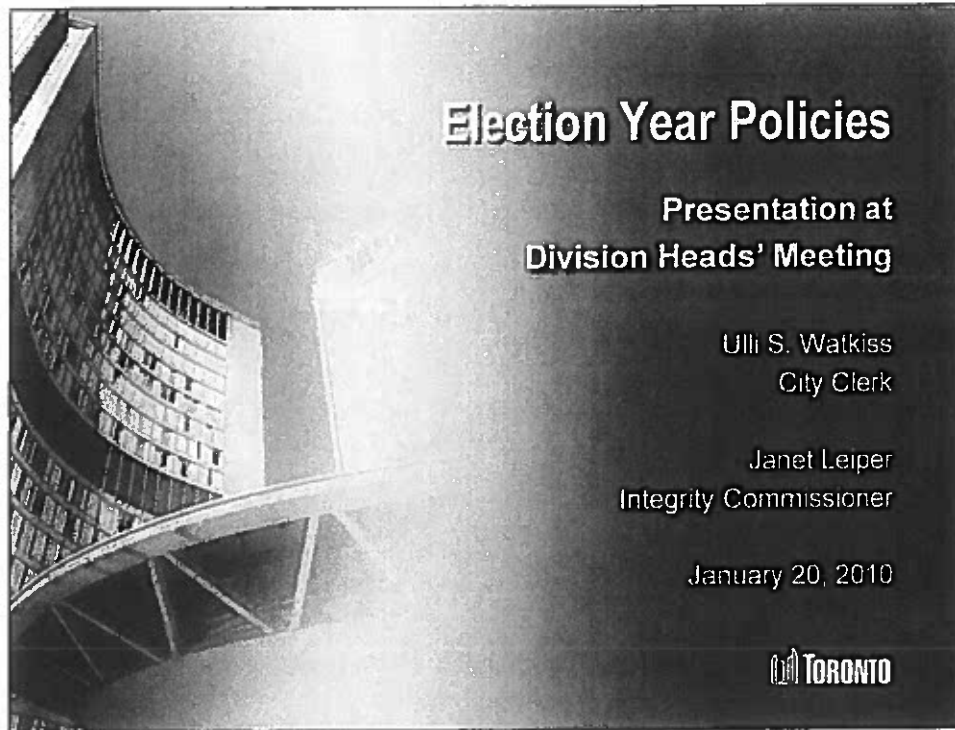
In addition, subsection 160(5) of the *City of Toronto Act, 2006*, authorizes Council to impose either of two penalties on a member of Council following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the *Code of Conduct*:

1. A reprimand; or
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.

Other Actions

The Integrity Commissioner may also recommend that Council or a local board (restricted definition) take the following actions:

1. Removal from membership of a Committee or local board (restricted definition).
2. Removal as Chair of a Committee or local board (restricted definition).
3. Repayment or reimbursement of moneys received.
4. Return of property or reimbursement of its value.
5. A request for an apology to Council, the complainant, or both.



Good morning. I'm Ulli Watkiss, City Clerk and making the presentation with me today is Janet Leiper, Integrity Commissioner.

Janet and I will be presenting to you the policies related to Members of Council and City resources during an election year. I will be speaking about the policies that relate to City divisions and City staff, while Janet Leiper, Integrity Commissioner, will speak on the policies that relate to Members of Council. We are providing you and your staff guidelines based on the policies. Each circumstance will be different. As division heads and program leads, ultimately, these are program decisions. However, you need to consider carefully the implications to both the Councillor and the City, as there could be legal consequences. Please read and understand the policies and their principles, review the circumstances and impact of each situation, and then determine your course of action. Please contact us if you need some advice regarding your situation.

Contact:

Ulli S. Watkiss, City Clerk

416-392-8010

uwatkis@toronto.ca

Janet Leiper, Integrity Commissioner

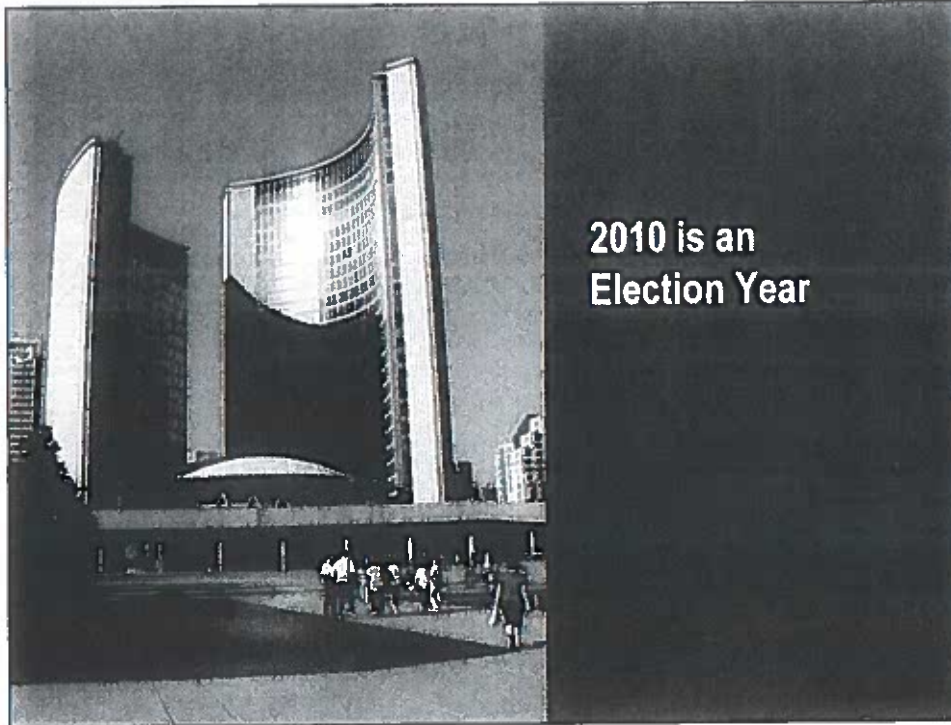
416-397-7770

jleiper@toronto.ca

Winnie Li, Director, Council and Support Services

416-392-8676

wli@toronto.ca



You are well aware that 2010 is an Election Year.

The municipal election includes election of:

A Mayor from across the entire City

A Councillor from each of 44 wards

As well as School trustee for both the English and French Public and Catholic School Boards

Important 2010 Dates

January 4	Candidate can start filing nomination papers
August 25 & 26	Last Council meeting
September 6	Labour Day
September 10	Nomination Day – last day to file papers
October 25	Election Day
December 1	New term of Council begins
December 7	Inaugural Council meeting

The Municipal Elections Act sets out the rules to be followed by both the City and candidates



The *Municipal Elections Act 2006* includes very specific rules to be followed by governments and candidates. Bill 212, the Good Governments Act and Council's decision in December 2009 tightened these requirements even further.

Candidates can only accept donations from an individual who is normally a resident in Ontario, the candidate and his or her spouse. They cannot accept donations from corporations or trade unions.

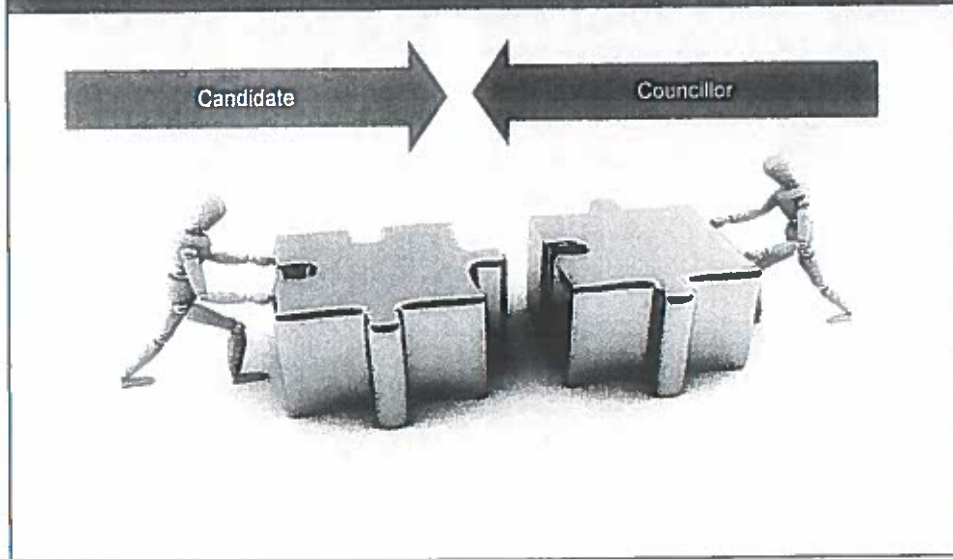
Federal, provincial or municipal governments and local boards are forbidden to make a contribution to a candidate.

Important principle -- the City, as a municipality, cannot make a contribution to a candidate in a campaign. Candidates are not allowed to receive a financial contribution from the City either.

If the City is perceived to be making a contribution to a candidate, there can be serious consequences, for both the candidate and for the City. The City can be sued as making an unlawful contribution. The candidate can also be sued for not declaring a financial contribution to his or her campaign, and the results of the election can be challenged.

The City is under extreme scrutiny. We must be very sensitive and careful so that the integrity of the election is not compromised. Be practical and if it involves something simple to avoid the perception and the issue entirely, please seriously consider doing so.

Councillors take on a dual role once they file their nomination papers



Councillors continue to function as Member of Council until the end of the term, i.e. November 30, 2010. However, once a Member of Council has filed nomination papers to run for either the Ward Councillor or the Mayor, the Councillor assumes two roles: that of a Member of Council, but also, that of a candidate in an election.

The line between the role of a Councillor and the role of a candidate needs to be as separate as possible, but it is not always clear, and not always black and white. The context and the individual circumstances often dictate how each situation is being considered.

When we review each situation, we must determine: is the Councillor approaching this as a member of Council, or is he or she approaching this as a candidate in the campaign?

By featuring the Councillor in an advertisement, or a media release, or an invitation, will the City be perceived to be profiling the Councillor as a candidate, and thus, provide a contribution to his or her campaign? Will the Councillor, who is also a candidate, be perceived to be receiving a _____ from the City?

You should be aware of three policies that guide City divisions in an Election Year



Use of corporate resources during an Election Year

http://www.toronto.ca/councillors/pdf/use_of_corp_res-extract_revised.pdf



Employee participation in Municipal Election Campaigns

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/65b7b2a823965ea085256944005b5a7c?OpenDocument>



Employees Seeking Election to Political Office

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/16093429d6c1c208852573530064fbb?OpenDocument>

The requirements in the Municipal Elections Act and the guiding principles form the background behind the City policies during an election year.

There are 3 policies that guide City divisions. In addition, the Integrity Commissioner will speak on the Code of Conduct for Members of Council, and additional policies that guide Members of Council. These policies, while directed at Members, will impact on City divisions and programs.

The first is a comprehensive policy called the Use of Corporate Resources during an Election Year. I will go into more details later on.

- Use of corporate resources during an Election Year

http://www.toronto.ca/councillors/pdf/use_of_corp_res-extract_revised.pdf

- Employee Participation in Municipal Election Campaigns

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/65b7b2a823965ea085256944005b5a7c?OpenDocument>

- Employees Seeking Election to Political Office

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/16093429d6c1c208852573530064fbb?OpenDocument>



The Policy on the Use of Corporate Resources during an Election Year states that no corporate resources can be used for any election-related purposes.

Corporate Resources is defined broadly as City Funds, City Staff, City Facilities or City Programs and Services.

Election-related purposes is also broadly defined, and apply to municipal, provincial and federal elections. For 2010, of course, we are talking about the municipal election.

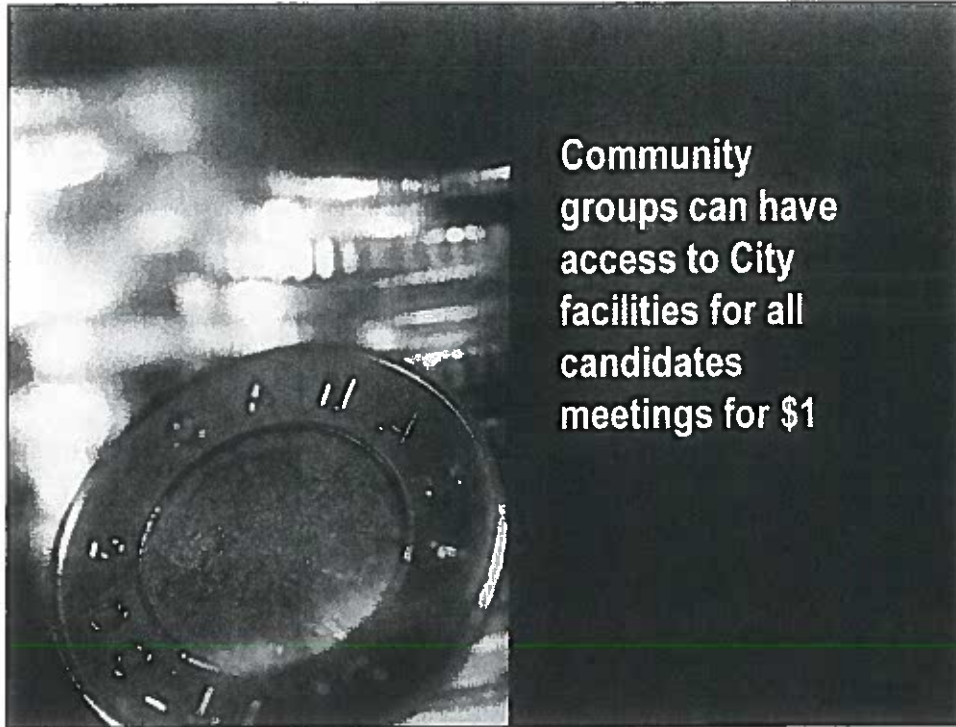
The policy applies to all Members of Council, irrespective of whether they have filed their nomination papers. "The guidelines apply to an acclaimed Councillor or a Councillor not seeking re-election, as well as all Councillors who seek re-election.

If you wish to find out which Councillor has filed nomination papers, you can check on this link:

<http://app.toronto.ca/vote2010/findByName.do?lastName=all>

The site is updated as candidates file their papers.

It is important to note that the policy includes the following clause – nothing in the policy shall prevent Members of Council from performing their duties as a Member of Council.



While City resources cannot be used for any election-related purposes, there is one exception under the policy:

Community groups can have access to City facilities for all-candidates meetings for municipal, provincial and federal elections.

Community groups will pay a nominal fee of \$1 for the use of the facility, with the requirement that all candidates for that office must be invited.

For divisions which operate facilities, such as community centres, libraries, shelters, etc, you will need to ensure that community groups who take out permits during an election year do not invite a candidate to join the meeting and promote his or her platform. And if they do intend to hold a meeting regarding the election, they need to invite all candidates to the meeting.

To help manage this, you may wish to consider including a specific clause in all permits that prohibits community groups from holding any election-related meeting/events at the facility, unless they invite ALL candidates.

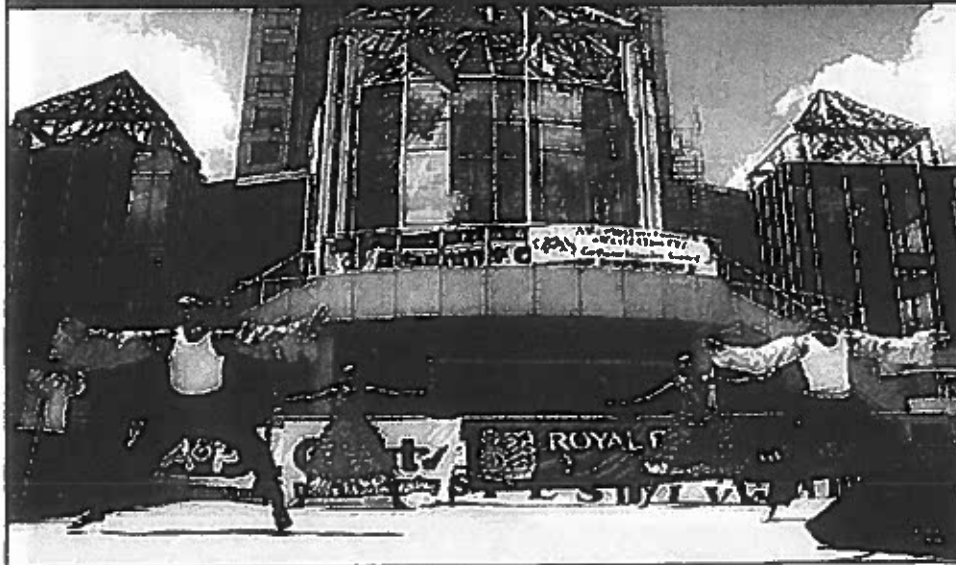
Any city-funded materials cannot reference name or photograph of a candidate



The policy also states that any material using City funds cannot make reference to, or contain the names or photographs, or identify candidates for municipal elections; except minutes of City Council and Committee meetings.

This rule applies to referencing individuals as candidates in a campaign. At the same time, Councillors continue to be a Member of Council and their ward's Councillor until the end of term. The tricky factor is to review and determine: is featuring the Councillor in promotional materials consistent with previous practice? Has there been a meaningful role for the Councillor in the project?

**Labour Day is the cut-off date for naming any
Members of Council in promotional materials**



After Labour Day, no advertising paid for by the City of Toronto shall contain the name of a Councillor or the Mayor, unless consistent with their duties as an elected official.

City programs and City events, however, are not bound by the Labour Day deadline. Environment Days, for example, continue after Labour Day.

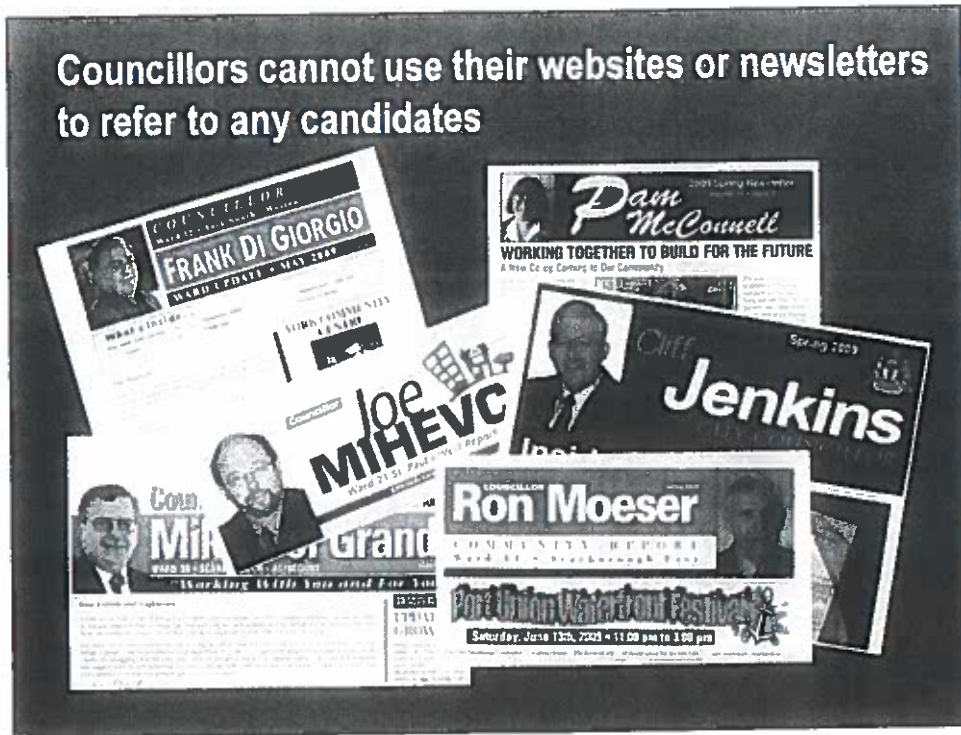
At City events, the Mayor and Members of Council can still attend the event, and speak and have a ceremonial role.

The invitations, media materials and advertising for the event, however, should not feature the name of the Member of Council.

Staff needs to make sure there is no campaigning at the event, e.g. handing out brochures, wearing "elect xx" buttons etc.

All candidates should be allowed to attend, if there is no campaign identification. If people try to hand out campaign materials, they cannot do so at City facility. E.g. if it is at a community centre, they cannot do so at the community centre, but can hand out materials at the sidewalk outside, as that is public property.

Councillors cannot use their websites or newsletters to refer to any candidates



The policy also places restrictions on Councillors in how they can spend their office expense budget. After Labour Day, Councillors are not allowed to use their office budget to organize community events, distribute newsletters or place advertising using their office budgets. However, if there is an emergency situation, such as a fire, flood or explosion and the Councillor needs to organize a community meeting, he or she can still do so.

Councillors are responsible to ensure that their materials do not reference any candidates or use City resources for election purposes.

Councillors may not use the services of any staff in the City of Toronto to assist in any communication activity related to the preparation or distribution of campaign related materials or events.

No photographic or video materials may be created by City staff for use in any campaign materials. The City of Toronto logo will not be used in any campaign related materials.

Case Example: Opening of a Playground in a priority neighbourhood



Questions to ask:

- what is the role of the Councillor in the project?
- who else is involved in the ceremony/event?
- what is the purpose of the event?
- what promotional materials will be used?
- has the Councillor filed his nomination papers?

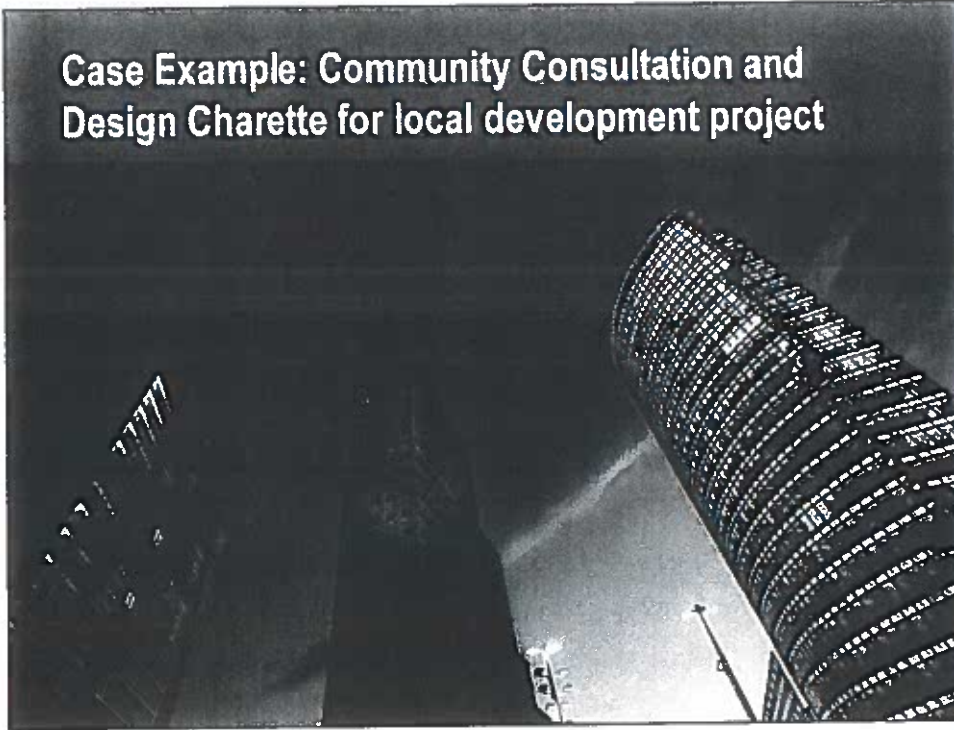
Event materials normally involve an event invitation, either as a formal invitation or an event flyer that may be distributed door to door in the community; a media invitation and media release, and maybe, advertising in the local community newspaper.

Our recommendation is that the invitation is from the Mayor and Members of Toronto City Council, without referencing the name of the Councillor. This is the protocol that is recommended at all times, and is used by Protocol staff for all City events.

If the Councillor has not been involved with the project, but now wishes to be quoted significantly in the media release, and he or she has filed nomination papers to run, then you will need to question whether it is valid to profile the Councillor or not, and whether profiling will create the perception of the City making a contribution.

At all times, Councillors can attend the event, have a speaking role and be part of the ceremonial party.

Case Example: Community Consultation and Design Charette for local development project



A major development is happening in a neighbourhood and planning staff is holding a design charette to invite the community to provide opinions and comments on the development. The local ward Councillor has been very active in working with the community on the site and is co-chairing the community meeting.

If this meeting is organized prior to Labour Day, then the invitation flyer can reference the name of the local ward Councillor.

If the flyer is distributed after Labour Day, then the flyer should reference "your local Councillor" and not the name of the Councillor.

The Councillor may request a media release to be distributed, describing his critical role in this development project. As staff, we will have to question: is a media release required at this stage of the project, i.e. a design charette? Should the media release just describe the process and the project, but not highlight and profile the role of the Councillor? Has the Councillor filed nomination papers, and will profiling the Councillor be perceived as the City making a contribution to a candidate?

City staff cannot participate in election-related activities during work hours or wearing uniform



I would like to reference two other policies that regulate City staff.

The HR Policy on Employee Participation in Municipal Election Campaigns aims to maintain the neutrality of the Toronto public service and is applicable to all City employees.

The policy will need to be updated in terms of the list of staff to whom it applies, but basically, states that

- No employee may canvass or work in support of a municipal candidate during working hours. Working hours does not include vacation time or time on leaves of absence.
- There is a specific list of staff that cannot take part in municipal campaign activities, whether during or outside of work hours. The list includes City Manager, Deputy City Managers, Statutory and By-Law Officials, Executive Directors/General Managers/Division Heads, Directors and other senior staff in positions of influence regarding programs and services who have direct contact with Members of Council etc.

Staff who are working on behalf of a municipal candidate may not use any of the City resources (e.g. office equipment, supplies etc.) for campaigning activities at any time before or during the election.

No employee shall wear his/her uniform while campaigning for a municipal candidate or use their title or position within the City in a way that would lead a member of the public to infer that the City is endorsing the candidate.

No employee shall wear clothing or buttons that advertise any candidate, at work.



The HR Policy on Employees Seeking Election to Political Office ensures leaves of absence are granted to employees who are running for elected political office and is applicable to all City of Toronto employees.

For employees seeking election to City of Toronto Council, they must take an unpaid leave of absence which must begin before the employee files his/her nomination papers and ends on voting day. *Municipal Elections Act, 1996, subsections 30(1), (2) and (3).*

For employees seeking election to other municipal councils and school boards, a leave of absence is not mandatory. The employee may use available vacation or lieu time as well as unpaid time.

Further details of this policy can be found on the City's website.

I would now hand over to Janet Leiper, Integrity Commissioner, who will cover the policies specific to Members of Council and the Municipal Election, and how they impact on your operations.

Members of Council and the Municipal Election



The Office of the Integrity Commissioner is one of four accountability positions established by the City of Toronto Act 2006. The Integrity Commissioner performs functions assigned by City Council in an independent manner with respect to the application of the Codes of Conduct for Members of City Council, members of local boards (restricted definition), including adjudicative boards, such as the licensing tribunal and the committee of adjustments.

The Integrity Commissioner provides advice and outreach to Members of Council and local and adjudicative boards, opinions that are requested by Council and conducts inquiries into the contravention of the Codes of Conduct.

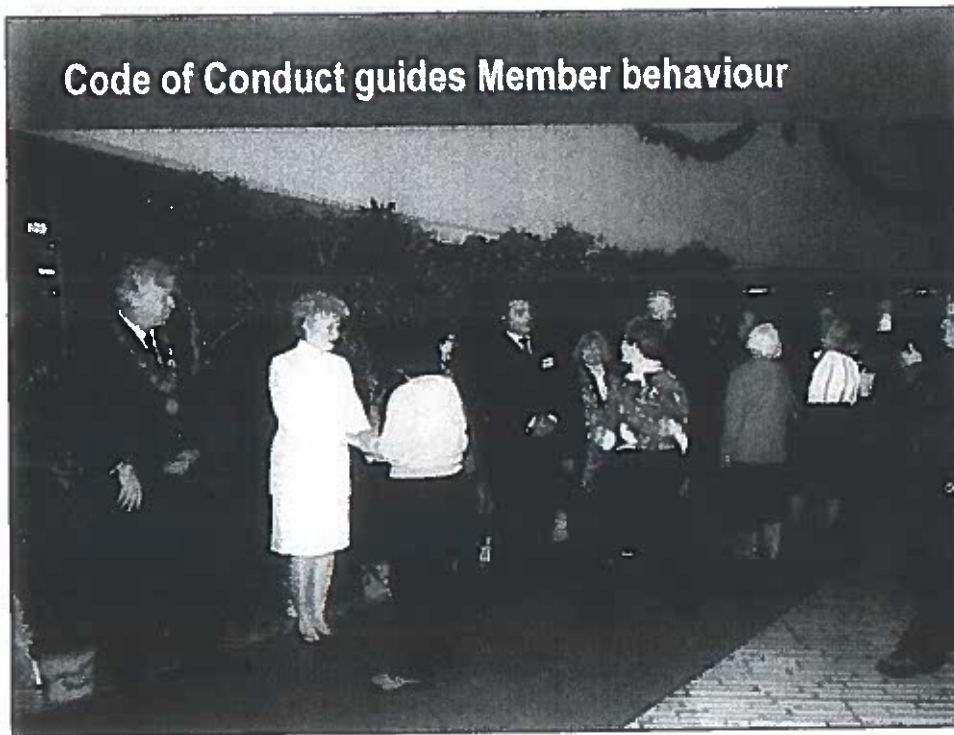
Contact information:

Janet Leiper

Integrity Commissioner

Tel: 416-397-7770

E-mail: jleiper@toronto.ca



The Code of Conduct for Members of Council, Section VII, speaks to Election Campaign Work.

The section says:

Members are required to follow the provisions of the *Municipal Elections Act, 1996*. No member shall use the facilities, equipment, supplies, services or other resources of the City (including the Councillor newsletters and websites linked through the City's website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on City property during regular working hours unless permitted by City policy (e.g. all candidates meetings). No member shall use the services or persons for election-related purposes during hours in which those persons receive any compensation from the City.

In addition, Section XII and Section XV speak to election-related behaviour.

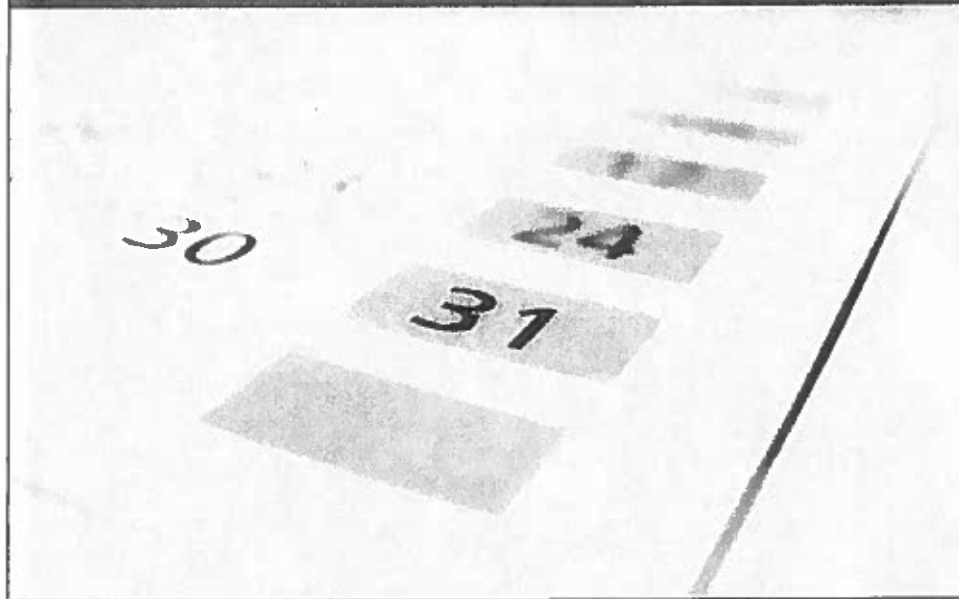
Section XII. Conduct Respecting Staff states:

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such a activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating , threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

Section XV. Failure to Adhere to Council Policies and Procedures states:

More generally, Members of Council are required to observe the terms of all policies and procedures established by City Council.

There is a moratorium date for receiving complaints against Councillors



In 2006, the Office of the Integrity Commissioner received a number of complaints related to Councillors use of corporate resources, and the distinction, or lack of distinction in their role as candidates and their role as Councillors.

The Code of Conduct Complaint Protocol for Members of Council provides that no complaints may be filed respecting a member seeking re-election during the period starting on Labour Day and ending when a new City Council is deemed organized under the *City of Toronto Act 2006*.

The spirit of this was so that complaints can be investigated and reported to the last meeting of Council. As the Election Day has moved to the last Monday in October and the last Council meeting this year is August 25 and 26, 2010, I will be submitting a report to Executive Committee and Council to move the moratorium date for filing complaints with the Integrity Commissioner to Civic Monday in August. In 2010, this would be August 1.

Councillors cannot receive donations for their community events once they register to run

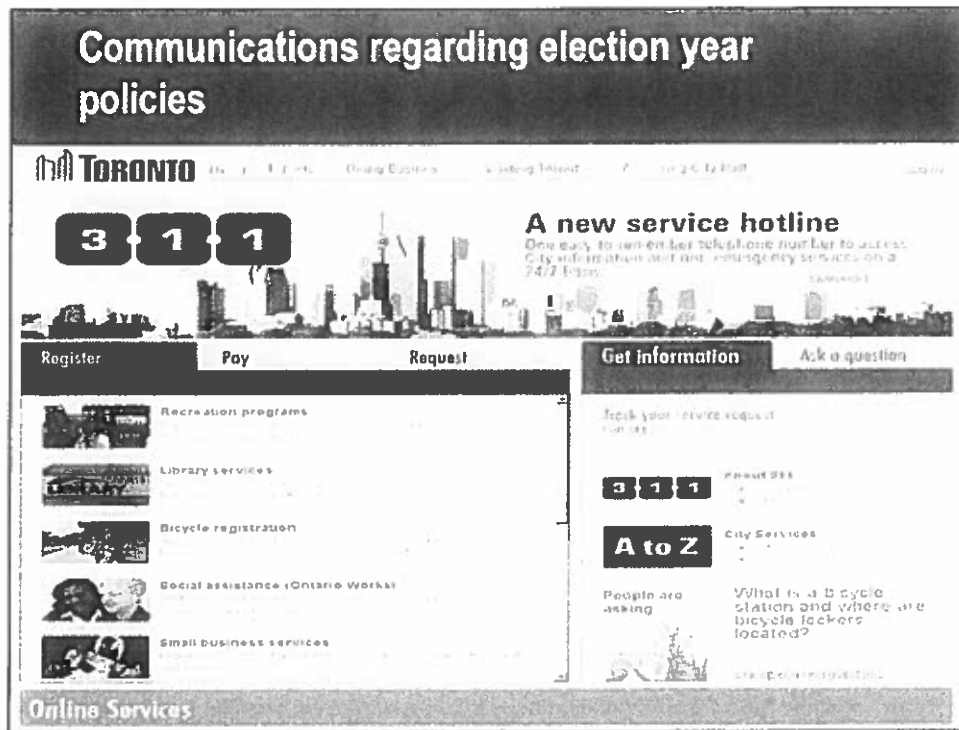


Under the policy approved by Council in July 2008, Councillors can receive donations of up to \$10,000 per year for their community events. In an election year, they must not seek donations or sponsorships for any community event that has not been staged in the previous two years, nor accept donations or stage any community event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Toronto.

It is important to remember that candidates are not allowed to receive any donations from corporations or governments and corporations and trade unions are not permitted to make a financial contribution to a candidate. There are significant fines against the corporation (\$50,000) and against the candidate (\$25,000).

Events organized by City programs and services do not fall under this policy. This is why it is very important for a clear distinction to be made regarding events organized by the City, and events organized by Members of Council.

Events that are jointly held by the Councillor, a City program such as Parks, Forestry and Recreation, and boards such as Business Improvement Areas are a little bit different. While City programs or boards can continue to seek sponsorships for the joint event, the request must come from the programs or boards. The Councillor should not be part of the solicitation party.



Together with the City Clerk, I have issued an interpretation bulletin to Members of Council, highlighting election year policies and case examples from the 2006 election.

The policies which we have described will be posted on the City's internet site as well as the intranet site, and will be linked from the elections site.

If you have any questions, please do not hesitate to contact myself or the City Clerk's Office.

And if you feel that Councillors have contravened the Code of Conduct or the City's policies, you are welcome to contact me anytime.

After this meeting, we will be distributing a memo with the details of the information included in this presentation, as well as a quick reference checklist. Please forward and share this with staff. If you need us to attend your senior management team or other staff meetings to discuss these policies further, Ulli, Winnie and I will be pleased to do so.





Interpretation Bulletin

**Advisory Guidelines for Members of
Council on Election-Related Issues and
Members' Code of Conduct**

Introduction

This Bulletin is intended to assist Councillors in their participation in the 2010 Municipal Elections. During the election, Councillors are expected to abide by the Code of Conduct, in addition to the provisions of the *Municipal Elections Act*. That responsibility includes ensuring that their staff and volunteers working under their direction also abide by the Code and the *Municipal Elections Act*. Ideally, potential issues and concerns can be identified and addressed in advance. The Office of the Integrity Commissioner is available as a confidential resource for advice. Members are urged to take advantage of this – either by flagging potential situations in advance, or seeking advice on questions relating to the boundaries between their work as Councillors and their role as candidates.

Timing of Complaints

The Code of Conduct Complaint Protocol for Members of Council provides that no complaints may be filed respecting a member seeking re-election during the period starting on Labour Day and ending when a new City Council is deemed organized under the *City of Toronto Act 2006*. I will be reviewing the need to move this date forward given the moving of the last Council meeting from the end of September to August 25 and 26, 2010.

Complaints that are received prior to the moratorium date, in the months preceding the election, will be dealt with as expeditiously as possible. Any Members who have concerns about communications in relation to open or closed investigations with the Office of the Integrity Commissioner are requested to bring those concerns to the attention of the office.

Article VII of the Code of Conduct

The Code of Conduct gives specific guidance about work on election campaigns which applies to all Councillors:

VII. ELECTION CAMPAIGN WORK

Members are required to follow the provisions of the *Municipal Elections Act, 1996*. No member shall use the facilities, equipment, supplies, services or other resources of the City (including Councillor newsletters and websites linked through the City's website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on City property during regular working hours unless permitted by City policy (e.g., all candidates meetings). No member shall use the services of persons for election-

related purposes during hours in which those persons receive any compensation from the City.

Reference: *The Code of Conduct for Members of Council:*
http://www.toronto.ca/city_council/pdf/members_code_conduct.pdf

Donations to Member-Organized Community Events

Authority: Council Decision on Integrity Commissioner Report to Executive Committee, EX22.6 "Report on Issues Arising Out of Operation of Members Code of Conduct and Complaint Protocol", at Council meeting of July 16, 17 and 18, 2008.

12j.

In an election year, a Member of Council must not seek donations and sponsorships for any community event that has not been staged in the previous two years nor accept donations or stage any community event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Toronto.

A community event is considered to have been staged in the previous two years if it meets the following criteria:

- has a very similar, if not the same, event name/title
- takes place at approximately the same time
- has the same general purpose

Use of Corporate Resources During an Election Year

The Councillor Expense Policy, Section 4.7, includes detailed requirements regarding the use of corporate resources during an election year. Some requirements apply through the election year while other requirements apply after Labour Day.

Councillors should consult the City Clerk or the Director of Council and Support Services concerning these requirements.

For your reference, the link to the policy on the internet is:
http://www.toronto.ca/city_council/pdf/councillor-expense-policy.pdf

Human Resources Policies – Employee Seeking Participation in Municipal Election Campaigns and Employee Seeking Election to Political Office.

Members of Council should remind their staff about the Human Resources policies which relate to elections.

These policies are available on the intranet at:

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/65b7b2a823965ea085256944005b5a7c?OpenDocument>

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/16093429d6c1c208852573530064fbbb?OpenDocument>

Examples of Decisions Made by the Integrity Commissioner During Elections

These examples provide Councillors and their staff with some perspective on the kinds of decisions made by the Office of the Integrity Commissioner during elections in the past.

Issue: Publication of a City Hall Newsletter as “Campaign-Related” Activity

A Councillor was alleged to have violated the *Code of Conduct for Members of Council* by using the resources of the City for an “election campaign or campaign-related activity” when the Fall 2006 City Hall Newsletter was in substance a document in support of the 2006 campaign for re-election as Councillor. Because staff worked on this brochure while the City was paying them and a claim was made for the costs of producing this newsletter from the Council Member’s Office Budget, Clause VII was said to have been violated.

Decision:

The newsletter did not announce or illustrate an indication of the Councillor’s re-election. It was produced and distributed prior to the election. Most importantly, despite the fact that it contained an extensive list of the Councillors, the Police Services Boards and Council’s accomplishments over the previous three years, it was not directly election-related. The document in part amounted to an accounting for the Councillor’s activities over the past three years, an accounting perfectly in order in a newsletter, irrespective of whether the Councillor was running for re-election. It also contained a number of references to important developments at or affecting the City over the past few months and since the distribution of a previous newsletter. It was a legitimate use of City resources on the basis of its recent events content and a legitimate accounting of the Councillor’s previous three years as a Councillor.

Issue: Election Sign Business and Use of City of Toronto E-Mail

Two complaints were filed, one by a candidate running in the 2006 Municipal Election that a Councillor violated Clause VII (“Use of City Property, Services and Other Resources”) by conducting an election sign business using City of Toronto email services.

Decision:

The Councillor involved wrote a letter of apology to the Director, Council and Support Services, copied to the City Clerk, the Director, Elections and Registry Services and the Integrity Commissioner, and shared with the complainant his response to the complaint stating that he had acted improperly and regretted the oversight.

For a member of Council to create the impression in the minds of reasonable people that he or she may be running a business out of that member’s City Hall office is a serious lapse of judgment and a lack of awareness of current Council policies on such matters. It is conduct that could well lead some candidates to actually contract for the advertised services in the expectation in the event of success at the polls of future alliances with and goodwill from an influential

member of Council. It was recommended in the Report to Council that Council uphold the complaint but not impose any sanctions.

Issue: Frivolous Allegations in an Election Context

A candidate alleged that a Councillor improperly used the influence of his/her office to pressure staff to remove election signs put up by opponents in the 2006 Municipal Election campaign, and placed undue pressure on members of the Toronto Police Services to lay charges against a person caught removing his/her election flyers. The complainant asserted this was contrary to the terms of one of the key statements of principle in the Preamble to the *Code of Conduct*. As the statements did not create stand alone *Code of Conduct* offences, the complaint was treated as having been brought under Clause XII of the *Code of Conduct* ("Conduct Respecting Staff").

Decision:

The candidate ran unsuccessfully against the Councillor in the 2006 Municipal Elections. Following the elections, he/she filed two complaints against the Councillor with respect to his/her conduct during the Election campaign. Councillors should not be called upon to answer such allegations unless the affidavit and additional material filed in support of a complaint reveal sufficient detail of the alleged course of events to provide a factual basis for the Integrity Commissioner to conclude that an investigation is warranted. Neither of the allegations met that standard. All of the assertions were based on what was heard from others and no details provided. There was no statement from the campaign worker, and email communications contained no information as to the basis on which the Councillor had used inappropriate pressure on staff. The complainant was given the opportunity to provide additional information and did not meet the deadlines provided. Therefore, the complaint was dismissed as frivolous, vexatious or not made in good faith.

Issue: Conduct of an Incumbent Member of Council on Election Day

A Deputy Returning Officer in the 2006 elections made a complaint against a Member of Council respecting the behaviour of that Councillor and a staff member on election day at the polling station at which the complainant was working. More specifically, the complainant asserted that the member of Council violated Clauses VII ("Election Campaign Work"), XII ("Conduct Respecting Staff") and XIV ("Discreditable Conduct") of the *Code of Conduct*.

Decision:

The behaviour of an incumbent Member of Council at a polling station on election day is a matter that comes within the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sch., and subject to the jurisdiction of the City Clerk as the person responsible. The City Clerk was instructed as per Clause 2(3) of Part B of the *Code of Conduct Complaint Protocol* to advise the complainant of this in writing.

Issue: Discreditable Conduct During an Election

A Member of Council running for re-election complained that another Councillor violated the *Code of Conduct* by engaging in discreditable conduct contrary to Clause XIV of the *Code of Conduct*. More particularly, it is alleged that the Councillor treated the Member unfairly by asserting in a voice mail message left on a general voice mail messaging system that the Councillor was currently under police investigation.

Decision:

The Councillor admitted leaving the voice mail message that gave rise to the complaint and that there was no basis for the contention that the Member was being actively investigated by police. To leave such a voice mail message on the voice mail messaging system constituted “discreditable conduct” under Clause XIV of the *Code of Conduct* and it was recommended to Council that it request the Councillor to make a full, unconditional written apology and if refused recommended that the Councillor be formally reprimanded.

For questions on any matters relating to the Code of Conduct and the election or other policies that Councillors should be aware of during an election year, please contact the Office of the Integrity Commissioner at 416-397-7770 or email: jlcipc@toronto.ca.