

### Municipal Elections Act Review

The Municipal Elections Act, 1996 regulates the conduct of municipal and school board elections in Ontario, and sets out roles for municipal clerks and councils.

The Municipal Elections Act covers administration of the election process, including:

- Elections of persons
- Questions on the ballot (aka - referendums)
- Roles and responsibilities of the municipal clerk, municipal council, school board, school board secretary, candidates, electors
- Rules related to voting, voter and candidate eligibility
- Method of voting
- Campaign and campaign finance rules
- Compliance, enforcement and penalties

The Ministry of Municipal Affairs reviews the Municipal Elections Act, 1996 after each Ontario municipal election to determine if it meets the needs of Ontario communities. Here are some of the changes following the latest review of the Municipal Elections Act, 1996.

The Municipal Elections Modernization Act, 2016 made changes to the Municipal Elections Act. Some of these changes came into effect immediately after Royal Assent and certain changes do not come into effect until April 1, 2018, in time for the next municipal election.

### What has changed?

#### Ranked Ballots



Municipal councils have the option of passing by-laws to use ranked ballots starting in the 2018 municipal election.

Much of the detail for ranked ballot elections, such as public consultation requirements and how votes will be counted, has been set out in [regulation](#).

#### Election Calendar



Changes to the election calendar reflect recommendations from the public, municipal councils and municipal staff to shorten the election campaign period. The first day that nominations can be filed for a regular election will be **May 1st**. Nomination day (the deadline to file a nomination) for a regular election will move to the fourth Friday in July (July 27, for the 2018 election).

A number of other deadlines related to regular elections have also changed:

- The deadline for a municipality to pass a by-law to place a question on the ballot has moved to **March 1st** in an election year. The deadline for other questions (e.g. a school board, a minister's question) will be **May 1st**.
- The deadline to pass by-laws authorizing the use of alternative voting, such as by mail or by internet, and vote counting equipment will be **May 1st** in the year before the election (e.g., May 1, 2017 for the 2018 election).
- The clerk will need to have procedures and forms related to alternative voting and vote counting equipment in place by **December 31st** in the year before the election.

#### Campaign Finance



Changes to campaign finance rules will help ensure that they are consistent with transparent, accountable, fair and modern election finance practices.

Corporations and trade unions are no longer eligible to contribute to municipal election campaigns. This includes all council and school board elections. Corporations and trade unions can be third party advertisers and make contributions to third party advertisers.

There will be a new spending limit for parties and expressions of appreciation after voting day.

A candidate who does not accept any contributions of money, or incur any expenses, is not required to open a bank account.

If a candidate sells items for \$25 or less in order to raise campaign funds, the money is considered campaign income rather than a contribution. In this case, the candidate does not have to issue a receipt, or make sure that the person buying the item is eligible to make a campaign contribution.

### Third Party Advertising



The Municipal Elections Act now includes a framework for third party advertising. The framework will come into effect on April 1, 2018, so that the rules will be in place for the 2018 municipal election.

#### What is a third party advertisement?

A third party advertisement is a message in any medium (billboard, newspaper, radio, etc.) that supports or opposes a candidate or a “yes” or “no” vote on a question on the ballot. Third party advertising does not include issues-based advertising so groups that do public outreach can continue their issued-based advocacy work throughout the municipal election period.

Advertising that does not cost money to post or broadcast, such as comments made on social media, will not be considered to be third party advertising.

#### Who can register as a third party advertiser?

Individuals, corporations and unions can register as third party advertisers and can also make contributions to third party advertisers. Third party advertisers will need to register with the municipality where they want to advertise. If they want to advertise in more than one municipality, they have to register in each municipality.

Registration allows a third party advertiser to promote or oppose any candidate that the electors in the municipality can vote for (local council, school board trustee positions and regional or county council offices).

Third party advertising must be done independently of candidates, who are not able to direct a third party advertiser. Candidates are not able to register as third party advertisers.

#### How do campaign finance rules apply to third party advertisers?

Most campaign finance rules that apply to candidates will also apply to third party advertisers. Third party advertisers will have spending limits and there will be contribution limits for those wishing to contribute to a third party advertiser. Corporations and unions will be permitted to make contributions to third party advertisers, but will not be permitted to make contributions to candidates.

Rules for determining whether two corporations should be considered as a single corporation are simplified, so that it should be easier for corporations and candidates to determine whether the contributions from two corporations should count towards the same contribution limit to third party advertisers.

#### Campaigning

Campaign provisions have been clarified to allow candidates to access apartment buildings, condominiums, non-profit housing co-ops or gated communities from 9 a.m. until 9 p.m. in order to campaign. Landlords and condominium corporations will not be allowed to prohibit tenants or owners from displaying campaign signs in their windows.

Candidates and third party advertisers are required to identify themselves on campaign advertisements and signs, so that it is clear who is responsible for each sign and advertisement that appears or is broadcast.

#### Enforcement



Changes to the Municipal Elections Act aim to encourage greater compliance with the campaign finance rules.

Every candidate will be entitled to a refund of the nomination fee if they file their campaign financial statement and, if needed, the auditor's report by the deadline.

There is a 30-day grace period for candidates and third party advertisers who miss the deadline to file a financial statement and auditor's report, provided that the candidate or third party advertiser pays a \$500 late filing fee to the municipality.

If a candidate or third party advertiser has filed their financial statement before the deadline and then discovers an error, they can file a corrected financial statement and auditor's report up until the filing deadline.

If an eligible voter believes that a candidate or third party advertiser has contravened an election campaign finance rule, the voter may apply for a compliance audit. Compliance audit committees will be required to provide brief written reasons for their decisions.

There will be a new process regarding contribution limits. The clerk who conducted the election is responsible for reviewing the contributions that are reported on the financial statements to council and trustee candidates as well as third party advertisers. If a

contributor appears to have given more than the contribution limits allow, the clerk will report this to the compliance audit committee. The compliance audit committee will then decide whether to commence a legal proceeding against the contributor.

Currently, it is an offence to give, lend, offer or promise someone an office or employment in order to convince a person to run for office, but not to run for office or withdraw from running for office. This has been expanded so that it is also an offence to give, lend, offer or promise someone money or other compensation in order to induce a person to run for office, not run for office or withdraw from running for office.

#### **Voters' List**

The government will continue to work with stakeholders and a stakeholder working group to look at systemic issues in the development of the voters' list, and to try to identify solutions for longer-term improvements. While this work is ongoing, some changes aim to help address certain issues immediately.

All certified candidates have access to the parts of the voters' list that apply to the office they are running for beginning September 1st in the election year.

Previously, applications to add, delete or change a person's own information on the voters' list had to be done in person or in writing. Municipal clerks are now able to determine other formats that people could use to make these applications.

The process to remove from the voter's list the name of a person who has died has been simplified. An application can be made from September 1st up until the close of voting on voting day. Even if the clerk has not received a request, the clerk can remove a name from the list if the clerk knows that the person has died.

#### **Nomination and Eligibility**

There is a new requirement that anyone wishing to run for office on a council must submit the signatures of 25 voters supporting the nomination. The individuals providing the signatures will each have to sign a declaration stating that they were eligible to vote in the municipality on the day that they signed the endorsement.

If a candidate files a nomination, and then changes their mind and decides to run for a different office on the same council, they are not required to submit new signatures.

The requirement to submit 25 nomination signatures does not apply to candidates running for school board trustee positions.

#### **Election Administration**

Municipalities and school boards are required to set out policies on the use of municipal and board resources during an election. Municipalities and school boards are able to set out a policy before the election addressing when an automatic recount will be conducted. (For example, a council may decide before the election that if two candidates are within 10 votes of each other, a recount will be held without either of the candidates having to request it.)

Clerks, rather than councils, will determine the dates and times for advance voting. They can also establish reduced voting hours in certain institutions and determine whether voting places will open early on voting day.

Another change prohibits voters from taking photographs or videos of their marked ballots. In addition, members of the public are able to inspect documents and materials related to the election for 120 days after the results of the election have been declared.

Clerks are now required to not only declare who wins the election but also provide the public with information regarding the number of votes received by each candidate, the number of votes for "yes" and "no" for a question on the ballot, and the number of declined and rejected ballots.

Clerks have greater flexibility in determining how certain election documents may be submitted and how notices are sent out.

Original signatures are required only for nomination forms, third party advertiser registration forms and proxy appointment forms.

#### **Accessibility**



Clerks are required to prepare a plan for the identification, removal and prevention of barriers that affect voters and candidates with disabilities, and make the plan available to the public before voting day in a regular election. The clerk also needs to provide a follow-up report to the public within 90 days after the election.

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