



**2022**  
**OTE**

# **Amherstburg**

## **2022 Town of Amherstburg Election Procedures**

## Certification

As Clerk of the Town of Amherstburg for the municipal elections, I do hereby certify the following procedures for conducting the 2022 municipal elections and also certify the forms attached (or similar version, either paper or electronic) as being those permitted to be used during this election process.

  
Valerie Critchley

May 31, 2022  
Date Approved

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## Authors Notes:

**Language:** The forms and notices in this document will be provided in English only, as required by Legislation.

**Accessibility:** If you require this document in a different format or have an inquiry with regards to accessibility, please contact the Town of Amherstburg by email at [accessibility@amherstburg.ca](mailto:accessibility@amherstburg.ca) or through the Clerk's Division.



# Authority and Application

## *Municipal Elections Act, Sections 11 and 12*

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### Duties of the 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 Repealed: 2002, c. 17, Sched.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).
- (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).

### Powers of the 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.

### 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.

### Procedures and Forms

Section 42(4) states that the procedures and forms established 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.

Any unforeseen cases not dealt with in these procedures will be recorded, action taken, and reflected in an addendum signed by the Clerk, to these procedures and circulated to all candidates and third party advertisers, as applicable.

## Application

### *Municipal Elections Act, Section 42*

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1. This procedure has been developed under the authority of Subsection 42(4) pursuant to Subsection 42(3) (a) (i) of the *Municipal Elections Act*, and applies to the 2022 Municipal Election being conducted by the Town of Amherstburg on October 5<sup>th</sup>, 15<sup>th</sup> and 24<sup>th</sup>, 2022.
2. The procedures and forms established by this document prevail over anything in the Act and its regulations, as per Subsection 42(4) of the *Municipal Elections Act*.
3. Where these procedures do not provide for any matter, the election shall be conducted as far as in consistent and practical within the principles of the *Municipal Elections Act* with the same being determined and established by the Clerk.
4. These procedures may be amended, as necessary and deemed appropriate, by the Clerk of the Town of Amherstburg. Any amendment to these procedures shall be signed by the Clerk and a copy of the amendment(s) shall be provided forthwith to all certified candidates for office on Municipal Council and/or school boards.

## Language

### *Municipal Elections Act, Section 9*

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### English

With respect to an election held for offices of a municipal council and an English public or separate school board, notices, forms and other information provided under this Act shall be made available in English only, unless the council of the municipality passes a by-law to authorize the use of:

- a) French, in addition to English, in the prescribed forms; and
- b) French, other languages other than English, or both, in notices, form (other than prescribed forms) and other information provided under this Act.

### Bilingual Notices and Forms

With respect to an election held for the offices of a French-language district school board, notices, forms and other information shall be 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 to this effect.

## Secrecy

### *Municipal Elections Act, Section 49*

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1. The Clerk shall require all election official(s) and/or other persons working in connection with the municipal elections to swear or affirm an oath of secrecy in accordance with Section 49 of the *Municipal Elections Act, 1996*.
2. No person shall interfere or attempt to interfere with an elector while in the voting process or with the voting process unless expressly requested and authorized by an elector asking for assistance.
3. No person shall obtain or attempt to obtain information about how an elector intends to vote or has voted. Any individual requested by an elector to assist him or her in voting is required to maintain the secrecy of the vote(s) cast by the elector and shall vote according to the instructions and wishes of the elector.
4. No person shall communicate any information that might have been inadvertently obtained at a voting place about how an elector intends to vote or has voted.
5. No elector shall take a photograph or video recording of his or her marked ballot.
6. 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 in accordance with the Act.
7. All electors voting at the Voter Help Centre(s) may vote with the assistance of a support person, however, the support person shall be required to take the appropriate oath prior to providing assistance.
8. All complaints regarding any and/or all breaches of secrecy shall be investigated by the proper authorities and shall be prosecuted according to the provisions of "Corrupt Practices and Other Offences – Penalties and Enforcement" under Sections 89 and 90 of the *Municipal Elections Act, 1996*.

# Nominations – Nomination Procedure

## *Municipal Elections Act, Sections 32 and 33*

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### Notice

The giving of notice shall be done in accordance with Section 32 of the *Municipal Elections Act*, namely, that of the offices for which persons may be nominated and of the nomination procedure. These notices shall be placed, as a minimum, in a local newspaper prior to May 2, 2022, and in one (1) conspicuous place in the municipality and on the municipal website.

### Nomination Papers

Nominations Papers for the following offices will be available at the Clerk’s Office from May 2, 2022 at 9:00 a.m. to Thursday, August 18, 2022, during regular business hours, and between 9:00 a.m. and 2:00 p.m. on Friday, August 19, 2022 (Nomination Day) for the following offices:

<b>Number of Offices</b>	<b>Position</b>
One (1)	Mayor
One (1)	Deputy Mayor
Five (5)	Councillor

Nomination papers for school boards must be obtained and filed with the Clerk (or designate) in Town Hall located at 271 Sandwich Street South, Amherstburg for the following office:

<b>Number of Offices</b>	<b>Position</b>
One (1)	School Board Trustee – French Separate

A person can begin the nomination process by attending 271 Sandwich Street South and requesting the Nomination Papers, consisting of:

- Candidate Information Sheet;
- Form 1 – Nomination Form; and,
- Form 2 – Endorsement of Nomination Form.

### Filing Nomination Papers

Filing of nominations with the Clerk shall be in the prescribed manner:

- In person or through an agent
- At the Clerk’s Office, 271 Sandwich Street South, from 9:00 a.m. on May 2, 2022 to Thursday, August 18, 2022 during regular office hours and between 9:00 a.m. and 2:00 p.m. on Friday, August 19, 2022 (Nomination Day).

- With the prescribed declaration, Form 2, completed by at least 25 persons endorsing the nomination who are eligible to vote in an election for an office within the municipality.
- With the prescribed statement of qualifications, signed by the person being nominated, as follows:
  - For Head of Council or Council Members only, an EL18A – Declaration of Qualification (Council); **or,**
  - For School Board Trustee only, an EL18B – Declaration of Qualification (Trustee).
- With the prescribed nomination filing fee of \$200 for Head of Council and \$100 for all other offices – the filing fee shall be paid by cash (debit), certified cheque or money order payable to the municipality.
- With proof of identity and residence as prescribed in O.Reg 304/13, as amended, namely, Form 9 – Declaration of Identity.
- No faxed or electronically transmitted nomination paper will be accepted, original signatures are required.

If a person is present at the Clerk’s Office on Nomination Day at 2:00 p.m., with a completed Form 2 in hand, and has commenced the process of filing his/her nomination but the process is not yet complete, they may file the nomination as soon as possible after 2:00 p.m.

The Clerk shall administer the Declaration of Qualifications on Form 1 (Nomination Form) and either the EL18A or EL18B (as appropriate), the Declaration of Qualifications oath of the candidate. The date and time of the filing will be noted and the Clerk will certify both, if complete.

The appropriate prescribed nomination filing fee will then be taken and a receipt for same issued.

Finally, a copy of the nomination form will be made and given to the candidate or their agent.

## Authorization to Act as Agent for Filing Nomination

Where a candidate opts to file a nomination by way of an agent, the candidate must provide an authorization to the individual to act as their agent in this regard which has been certified by a notary public.

## **Preliminary Maximum Campaign Expenses**

### *Municipal Elections Act, Section 33.0.1*

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The Clerk shall calculate the estimated maximum campaign expenses for each office and provide a copy of the Preliminary Spending Limits certificate to the candidate or their agent on the day that the Nomination Paper is filed in accordance with Section 33.0.1 (1) of the Act. In accordance with Section 33.0.1 (2), the Clerk's calculation in this respect is final.

## **Preliminary Maximum Contribution Own Campaign**

### *Municipal Elections Act, Section 33.0.2*

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The Clerk shall calculate the estimated maximum contribution amount a candidate or their spouse may make to their own campaign and provide a copy of the Preliminary Maximum Contribution Own Campaign certificate to the candidate or their agent on the day that the Nomination Paper is filed in accordance with Section 33.0.2 of the Act. In accordance with Section 33.0.2 (2), the Clerk's calculation in this respect is final.

## **Notice of Penalties**

### *Municipal Elections Act, Section 33.1*

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The Clerk shall, before voting day, provide the Notice of Penalties in accordance with Section 33.1 of the *Municipal Elections Act* to their candidate or agent. The candidate or their agent will be required to complete the Confirmation of Receipt and a copy will be provided for their records of same.

## **Access to Candidate Contact Information**

### *Municipal Freedom of Information and Protection of Privacy Act, Section 14*

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Pursuant to the *Municipal Freedom of Information and Protection of Privacy Act*, the information contained in a Nomination Paper is deemed to be public record and may be inspected by any person at the Clerk's Office at any time the office is open. To facilitate candidate contact with the public and the press, it has been the Town of Amherstburg's practice to post information contained in the Nomination Paper on the Town website. It is recognized that the contact information shown on the Nomination Paper may not be the most convenient or appropriate for posting on the website or providing as a result of public enquiries.

All candidates are asked to fill out the following information regarding contact information to be listed on the Town of Amherstburg website.

There is no obligation on the part of the candidate to authorize the release of this contact information.

## Unofficial List of Candidates

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The Clerk shall provide notice of the unofficial list of candidates by preparing and posting, at a minimum, in Town Hall (271 Sandwich Street South) and on the Town website, an Unofficial List of Candidates which is updated as each Nomination Paper is filed. The list shall be clearly marked “Unofficial.”

## Nomination Day – August 19, 2022

*Municipal Elections Act, Section 31*

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Nomination papers will be received at Town Hall, 271 Sandwich Street South, between 9:00 a.m. and 2:00 p.m. on Nomination Day, August 19, 2022. The procedure for handling of Nomination Papers on Nomination Day will be the same as above.

## Certification of Nomination Paper

*Municipal Elections Act, Section 35*

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On or before Monday, August 22, 2022, at 4:00 p.m., the Clerk will review each nomination received to determine qualification and if the nomination complies with the *Municipal Elections Act, 1996*. Once satisfied the candidate is qualified, complete the Certification by Clerk section on the Nomination Paper, Form 1.

## Rejection of Nomination Paper

*Municipal Elections Act, Section 35 (3) and (4)*

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If the Candidate is not qualified to be nominated, or the nomination does not comply with the *Municipal Elections Act, 1996*, the Clerk will reject the Nomination. A formal communication will be sent to the candidate informing them of the rejection, and a Notice of Rejection of Nominations shall be sent by Registered Mail, as soon as possible, to:

- The person who sought to be nominated; and,
- By regular mail to all candidates for the office.

## **Withdrawal of Nomination Papers**

### *Municipal Elections Act, Section 36*

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Candidates may withdraw their Nomination by filing, in person, a withdrawal in writing, using an EL19 – Withdrawal of Nomination Form, with the Clerk by 2:00 p.m. on Nomination Day, Friday, August 19, 2022, if the person was nominated on or before Nomination Day; and before 2:00 p.m. on the Wednesday following Nomination Day, August 24, 2022, if the person was nominated under Section 33 (5).

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

## **Multiple Nominations - Deemed Withdrawal**

### *Municipal Elections Act, Section 29 (2)*

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If a Candidate has filed an earlier nomination in the same election, the first nomination is considered withdrawn when the second nomination is filed. A new “Nomination Paper” Form 1 must be submitted but the endorsement of 25 eligible voters may be transferred to the new nomination.

## **Official List of Candidates**

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The final list of certified candidates will be posted, at a minimum, in Town Hall (271 Sandwich Street South) and on the Town website, on or before, Monday, August 22, 2022 and certified by the Clerk.

## **Declaration of Acclamation to Office**

### *Municipal Elections Act, Section 37 (1)*

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If after 4:00 p.m. on Monday, August 22, 2022, 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(s) elected by acclamation. The Clerk shall post an EL20 – Declaration of Acclamation to Office in Town Hall (271 Sandwich Street South) and on the Town website, at a minimum.

## **Fewer Number of Nomination Papers than Offices**



### *Municipal Elections Act, Section 33 (5)*

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If at 4:00 p.m. on Monday, August 22, 2022, the number of certified nominations filed for an office is less than the number of persons to be elected to the office, additional nominations may be filed between 9:00 a.m. and 2:00 p.m. on Wednesday, August 24, 2022. The Clerk shall post a notice of additional nominations advising that additional nomination papers may be filed for that office during the specified time. If at 2:00 p.m. on Wednesday, August 24, 2022, additional Nomination Papers have been filed, the procedure to certify or reject the Nomination Papers shall be followed.

## **Withdrawal of Additional Nominations**

### *Municipal Elections Act, Section 36*

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Withdrawal of additional nominations must take place prior to 2:00 p.m. on Wednesday, August 24, 2022. The procedure is the same as the above noted procedure for withdrawal of nomination papers.

## **Filing Vacancies**

### *Municipal Elections Act, Section 37 (4)*

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If an office remains vacant after the declaration of candidates by acclamation under section 37 and the declaration of the election of candidates following the conduct of the election for offices on the Municipal Council, the following rules apply:

### **Insufficient Number to Form a Quorum – Municipal Council**

If the number of candidates declared elected is insufficient to form a quorum of the Municipal Council, a by-election shall be held.

### **Sufficient Number to Form a Quorum – Municipal Council**

If the number of candidates declared elected is less than the number of positions for an office of the Municipal Council, but does form a quorum, Section 263 (1) (a) of the *Municipal Act, 2001*, shall apply.

## **Death or Ineligibility of a Candidate**

### *Municipal Elections Act, Section 39*

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

- If the result would be one less candidate only and no acclamation, the candidate's name shall be omitted from the ballot. If the ballots are already printed, the Clerk shall, at a minimum, post the notice of the death or ineligibility in a conspicuous place in every Voting Place and the election shall proceed as if the deceased or ineligible candidate has not been nominated.
- If the result would be an acclamation for an office, the election to such office is void and a by-election for such office shall be held in accordance with Section 65 (4) (1) (v), provided that the sixty (60) day period starts as of the date of death or ineligibility.

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

## **Final Calculation of Campaign Expenses**

### *Municipal Elections Act, Section 88.20 (11) (13) (14) and (15)*

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The Clerk shall, after determining from the number of eligible electors from the Voters List for each office, calculate the maximum amount of campaign expenses that each candidate may incur for that office and prepare a certificate of Maximum Campaign Expenses (EL37A). The certificate shall be given to each candidate in the case of a regular election, on or before September 25, 2022.

The number of electors to be used in this final calculation is to be the greater of the following:

- The number determined from the Voters List from the previous regular election, as it existed on September 15 in the year of the previous election, adjusted for changes under Section 24 and 25 that were approved as of that day;
- The number determined from the Voters List for the current election as it exists on September 15 in the year of the current election, adjusted for changes under Section 24 and 25 that were approved as of that day.

The Clerk's calculation is final and shall be made in accordance with the prescribed formula in *Ontario Regulation 101/97*.

## **Maximum Contribution Own Campaign**

### *Municipal Elections Act, Section 33.0.2 and 88.9.1 (1)*

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On or before September 25, 2022, the Clerk shall give a final certificate of the applicable maximum campaign expenses to each candidate using form EL37B – Certificate of Maximum Amount of Contributions to Own Campaign.

The number of electors to be used in this final calculation is to be the greater of the following:

- The number determined from the Voters List from the previous regular election, as it existed on September 15 in the year of the previous election, adjusted for changes under Section 24 and 25 that were approved as of that day;
- The number determined from the Voters List from the current election, as it exists on September 15 in the year of the current election, adjusted for changes under Section 24 and 25 that were approved as of that day.

## **Maximum Amount of Expenses for Campaign/Election Parties (etc.) for Candidates**

*Municipal Elections Act, Sections 88.20 (9) (13)*

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On or before September 25, 2022, the Clerk shall give a final certificate of the maximum applicable maximum expenses of a candidate's campaign relating to the cost of holding parties and making other expressions of appreciation after the close of voting. This shall be done using form EL37C – Certificate of Maximum Campaign Expenses for Parties.

The number of electors to be used in this final calculation is to be the greater of the following:

- The number determined from the Voters List from the previous regular election, as it existed on September 15 in the year of the previous election, adjusted for changes under Section 24 and 25 that were approved as of that day;
- The number determined from the Voters List from the current election, as it exists on September 15 in the year of the current election, adjusted for changes under Section 24 and 25 that were approved as of that day.

## **Candidate Name Pronunciation**

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All certified candidates are to provide to the Clerk the proper pronunciation of their name prior to October 3, 2022.

## **Requests for Public Information**

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An election procedure exists for questions and/or requests for information by candidates (during the election process) for public information which is not available on the Town website. Candidates must

complete a Request for Information from Election Candidate form and submit same to the Clerk's Office by mail, in person or by fax. Responses to requests for public information are provided to all candidates within seven (7) days of receipt, except where additional time and costs are required for research and record retrieval. Given the staff time required for some information requests, the requestor will be advised, where appropriate and applicable, of any required fees for research and photocopies. If the information requested is not a public record, the request will be denied and the requestor may determine whether to proceed with a request under the *Municipal Freedom of Information and Protection of Privacy Act*.

## Voters List

### Voter Qualifications

#### *Municipal Elections Act, Section 17 (2)*

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A person is entitled to be an elector at an election held in a local municipality if, on Voting Day (October 24, 2022) he/she:

- Resides in the local municipality or is the owner or tenant of land in the local municipality, or the spouse of such owner or tenant;
- Is a Canadian citizen;
- Is at least 18 years old; and,
- Is not prohibited from voting under subsection 17 (3) of the Municipal Elections Act, 1996, or otherwise, by law.

### Persons Prohibited from Voting

#### *Municipal Elections Act, Section 17 (3)*

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The following are prohibited from voting:

- A person who is serving a sentence of imprisonment in a penal or correctional institution;
- A corporation;
- A person acting as executor or trustee or in any other representative capacity, except as a voting proxy in accordance with Section 44,
- 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.

## **Preliminary List of Electors**

### *Municipal Elections Act, Section 19*

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The Preliminary List of Electors supplied by the Municipal Property Assessment Corporation (MPAC) shall be delivered to the Clerk by September 1, 2022, if no date is agreed upon with MPAC or prescribed by the Minister.

The Preliminary List of Electors shall contain the name and address of each person who is entitled to be an elector and any additional information the Clerk needs to determine for which offices each elector is entitled to vote, such as school support.

In addition, if the local municipality is divided into voting subdivisions, the name of each resident elector shall be entered on the Preliminary List of Electors for the voting subdivision in which he or she resides and the name of each non-resident elector shall be entered for the voting subdivision in which the elector or his or her spouse is an owner or tenant of land.

The Clerk shall, to the best of their ability and legislative authority, ensure that an elector's name appears on the Preliminary List of Electors for a local municipality only once.

Where a voter qualifies at more than one location in the municipality, the voter may vote only once for each office and the qualifying address to determine the eligibility for voting shall be the elector's place of residence.

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

## **Correction of Errors**

### *Municipal Elections Act, Section 22*

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The Clerk shall correct any obvious errors in the Preliminary List of Electors prior to September 1, 2022 and notify the Municipal Property Assessment Corporation (MPAC). This notification can occur when the Final List of Changes to the Voters List is sent to MPAC after the election. However, those changes affecting a ward and voting place designation, missing streets, buildings or subdivisions, should be forwarded to MPAC in time for inclusion in the September Exceptions files that MPAC provides. Notification to MPAC should be sent in an email to the municipality's Municipal Relations Representation.

The Clerk may use any information that is in the municipality’s custody or control when correcting the Preliminary List of Electors for obvious errors.

## **Certification of Voters List**

*Municipal Elections Act, Section 23*

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The corrected Preliminary List of Electors becomes the Voters List once it is reproduced and identified with a Voters List Cover Sheet on or before September 1, 2022.

## **Request for Copies of Voters List**

*Municipal Elections Act, Section 23 (3) (4) and (5)*

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Upon written request, but not until September 1, the Clerk shall give every candidate a copy of the part of the Voters List that contains the names of the electors who are entitled to vote for that office. Each candidate will be required to sign an EL14 – Voters List Receipt Form indicating the limitations on use of the Voters List and the responsibilities of the candidate.

## **Access to the Voters List**

*Municipal Elections Act, Section 23 and Subsection 88 (11)*

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The legislation states that the Voters List cannot be posted in a public place and can be used only for election purposes. Due to MFIPPA, details about another person, other than the person an Election Official is speaking with, shall not be provided, including whether or not the individual is on the Voters List. Inquiries with regards to whether an individual is on the Voters List should be directed to the Clerk’s Division to provide further information or guidance.

## **Amendments to the Voters List**

*Municipal Elections Act, Section 24 and 52 (2)*

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An elector may make the application to amend their information on the Voters List using the prescribed EL15 - Application to Amend Voters List form between the 1<sup>st</sup> day of September, 2022, to the 23<sup>rd</sup> day of October, 2022, during normal hours and on the 24<sup>th</sup> day of October, 2022 until 8:00 p.m. The Clerk, or designate, shall review the application and if the applicant is entitled to have the requested change made, the Clerk, or designate, shall make the change. If the Clerk, or designate, is not satisfied that the

applicant is entitled to have the requested change made the Clerk shall note the reason for refusal and return the application to the applicant.

## **Removal of a Deceased Person’s Name from the Voters List**

### *Municipal Elections Act, Section 25*

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The Clerk may remove a person’s name from the Voters List up to 8:00 p.m. on October 24, 2022, if the Clerk is satisfied that the person has died.

A person may make an application requesting that a deceased person’s name be removed from the Voters List by completing an EL16 – Application for Removal of Deceased Person’s Name from Voters List form and providing such proof as is deemed acceptable by the Clerk, between the 1<sup>st</sup> day of September, 2022 to the 23<sup>rd</sup> day of October, 2022, during normal hours and on the 24<sup>th</sup> day of October, 2022 until 8:00 p.m.

## **Interim List of Changes**

### *Municipal Elections Act, Section 27 (1)*

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The Clerk shall, during the period beginning September 15<sup>th</sup> and ending on September 25<sup>th</sup> in the year of a regular election, prepare the Interim List of Changes to the Voters List form. The Interim List of Changes to the Voters List shall be given to each person who has received a copy of the Voters List and to each certified candidate in accordance with Section 27 (1).

## **Certification of the Voters List**

### *Municipal Elections Act, Section 28 (1)*

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The Clerk shall compile any changes to the Voters List on the Certificate of the Voters List and certify the Voters List for use in each voting place, if applicable.

## **Final List of Changes to the Voters List**

### *Municipal Elections Act, Section 27 (2)*

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The Clerk shall prepare the Final List of Changes to the Voters List by November 23, 2022. A certified copy of the Final List of Changes shall be sent to the Municipal Property Assessment Corporation (MPAC)

together with a copy of the approved EL15 and EL16 applications. The Final List of Changes can alternatively be provided by the municipality's Voter List management supplier to MPAC by November 23, 2022, upon the Clerk's authorization.



# Candidate Campaigning and Campaign Advertising

## Canvassing and Access to Residential Properties

*Municipal Elections Act, Section 88.1*

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Section 88.1 of the *Municipal Elections Act* states the following:

“No person who is in control of an apartment building, condominium building, non-profit housing cooperative or gated community may prevent a candidate or a representative from campaigning between 9:00 a.m. and 9:00 p.m. at the doors of apartments, units or houses, as the case may be.”

Despite these legislative provisions, candidates may experience difficulty in gaining access to certain premises. If this occurs, candidates should contact the owner of the rental building or the board of directors of the condominium and request they instruct their staff of the legislative right of candidates to have access to these buildings for canvassing purposes.

**Note:** The Clerk will not intervene on behalf of any candidate to secure access to any buildings for the purpose of canvassing or distributing election material.

## Campaigning and Campaign Advertising

*Municipal Elections Act, Section 88.3*

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Campaigning including campaign advertising, are permitted no earlier than the filing of Nomination Papers by the Candidate unless otherwise stated in the local municipal by-law.

Candidate campaign advertising means an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting or supporting the election of a Candidate. Examples include lawn signs, brochures, posters, print, radio and electronic ads (etc.).

All candidate campaign advertising shall identify the Candidate by name, as it appears on the Nomination Form.

All Candidates shall provide the following information to a broadcaster or publisher in writing:

- The name of the Candidate
- The name, business address and telephone number of the individual who deals with the broadcaster or publisher under the direction of the Candidate.

Information contained in/on all campaign material is the responsibility of the Candidate and any questions or concerns should be directed to the Candidate.

## **Municipally Owned/Leased Facilities**

### *Municipal Elections Act, Section 88.18*

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Election campaigning or the distribution and/or posting of election campaign advertising at municipally owned or leased facilities is not permitted.

The use of corporate resources is not permitted by Candidates for election purposes (e.g. staff, electronic devices, supplies, candidate photos taken in or on municipal property, etc.) in accordance with applicable legislation and the Town's Use of Corporate Resources for Elections – Not Permitted policy.

Candidates are prohibited from verifying whether an elector appears on the Voters List or not, to the elector or any other person. Questions should be directed to the Office of the Clerk.

## **Location of Election Signs**

### *By-law 2018-37, Essex County Highways Best Management Practice Manual*

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Candidates are obligated to follow the Town of Amherstburg By-law, By-law 2018-37 regarding the placement of election signs, as well as the Essex County Highways Best Management Practice Manual when dealing with County roadways. This is informed by the Ministry of Transportation Corridor Signing Policy, 2010, and further detail is provided in the Candidate Package under the following headings:

- Election Sign By-law FAQ
- County of Essex Sign Policy and FAQ

## **Municipal Authority to Remove Advertisements**

### *Municipal Elections Act, Section 88.7*

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If a municipality is satisfied that there has been a contravention of section 88.3 (candidates' election campaign advertisements), 88.4 (third party advertisements) or 88.5 (mandatory information in third party advertisements), the municipality may require a person who the municipality reasonably believes contravened the section or caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to remove the advertisement or discontinue the advertising.

## Campaigning on Voting Day

### *Municipal Elections Act, Section 47 (5)*

---

The *Municipal Elections Act* does not prohibit campaigning on Voting Day, however, the Act prohibits campaign material at a Voting Place. Candidates should be aware that the Voting Place could include the entire property of a building that has a voting station inside it, including the parking lot. Candidates are not permitted to have campaign brochures, campaign buttons, signs or other material at the Voting Place.

Candidates and scrutineers are allowed to stay in a Voting Place to observe, but are not allowed to interfere with voters, attempt to influence how they vote, or ask a voter how they voted.

**Note:** If a candidate has been acclaimed, they are not allowed to appoint scrutineers or be in the Voting Place, except to cast their vote.

Candidates and their scrutineers are entitled to be in the Voting Place 15 minutes before it opens and to inspect ballot boxes, the ballots, and any other papers or forms relating to the vote. However, candidates may not delay the opening of the Voting Place.

# Candidate Campaign Contributions and Expenses

## Contributions to Registered Candidates

*Municipal Elections Act, Section 88.8 (1) – (5)*

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A contribution shall not be made to or accepted by a person or an individual acting under the person's direction unless the person is a candidate.

A contribution made to or accepted by a candidate, or to an individual acting under the candidate's direction, shall only be made during the candidate's election campaign period.

Contributions shall only be made by the following:

- An individual who is normally a resident in Ontario;
- The candidate and his or her spouse, subject to if the spouse of a candidate is not normally resident in Ontario, a candidate and his or her spouse may make contributions only to the candidate's election campaign.

The following shall not make a contribution:

- A federal political party registered under the *Canada Elections Act, 2000*, or any federal constituency association or registered candidate at a federal election endorsed by that party.
- A provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act, 1990*.
- A corporation that carries on business in Ontario;
- A trade union that holds bargaining rights for employees in Ontario;
- The Crown in right of Canada or Ontario, a municipality or local board.

## Acceptance of Contributions

*Municipal Elections Act, Section 88.8 (6) – (10)*

---

A contribution may be accepted only by a candidate or an individual acting under direction of the candidate.

A contribution may be accepted only from a person or entity that is entitled to make a contribution.

A contribution of money that exceeds \$25 shall not be contributed in the form of cash and shall be contributed in a manner that associates the contributor's name and account with the payment or by money order signed by the contributor.

The listing of the phone number and email address and/or hyperlink to the candidate's website by the municipality or local board does not constitute a contribution to a candidate.

## **Maximum Contributions to Candidates**

### *Municipal Elections Act, Section 88.9*

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A contributor shall not make contributions exceeding a total of:

- \$1,200 to any one candidate in an election;
- Except if a person is a candidate for more than one office a contributor's total contributions to that candidate in respect of all the offices shall not exceed \$1,200;
- \$5,000 to two or more candidates for office on the same council or local board;
- Except if the candidate is contributing to the candidates own election campaign, then the maximum contributions do not apply;
- Except if the contributor is the spouse of the candidate, then the maximum contributions do not apply.

## **Fundraising for Candidates**

### *Municipal Elections Act, Section 88.10*

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A fund-raising function shall not be held for a person who is not a candidate. Fund-raising functions may only be held during the campaign period.

## **What Constitutes a Contribution?**

### *Municipal Elections Act, Section 88.15*

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Section 88. 15 of the *Municipal Elections Act* states:

“For the purposes of this Act, money, goods and services given to and accepted by a person for his or her election campaign, or given to and accepted by, another person who is acting under the person’s direction, are contributions.”

## Contributions

In addition to the statement above [88.15 (1)]:

- An amount charged for admission to a fund-raising function.
- If goods and services are sold for more than their market value at a fund-raising function, the difference between the amount paid and the market value. However, if the amount received for the goods or services is \$25 or less, the amount is not a contribution.
- If goods and services used in the person’s election campaign or in relation to third party advertisements are purchased for less than their market value, the difference between the market value and the amount paid.
- Any unpaid but guaranteed balance in respect of a loan under section 88.17 (Campaign Account Loans).

## Not Contributions

In addition to the statement above [88.15 (1)]:

- The value of services provided by voluntary unpaid labour.
- The value of services provided voluntarily, under the direction of the person or the individual, corporation or trade union, by an employee whose compensation from all sources for providing the services does not exceed the compensation the employee would normally receive for the period the services are provided.
- An amount of \$25 or less that is donated at a fund-raising function.
- The amount received for goods and services sold at a fund-raising function, if the amount is \$25 or less.
- The amount of a loan under section 88.17 (Campaign Account Loans).
- For a person referred to in 88.15 (1), the value of political advertising provided without charge on a broadcasting undertaking as defined in section 2 of the Broadcasting Act (Canada), if:
  - It is provided in accordance with the Act and the regulations and guidelines made under it; and,
  - It is provided equally to all candidates for office on the particular council or local board.

## Value of Goods and Services

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.

### **Restriction: Use of Own Money**

*Municipal Elections Act, Section 88.16*

---

A contributor shall not make a contribution of money that does not belong to the contributor.

However, this does not apply to the personal representative of a deceased person whose will directs that a contribution be made to a named candidate or a registered third party, as the case may be, out of the funds of the estate.

### **Campaign Account Loans**

*Municipal Elections Act, Section 88.17*

---

A candidate and his or her spouse may obtain a loan only from a bank or other recognized lending institution in Ontario, to be paid directly into the candidate's campaign account. Only the candidate and his or her spouse may guarantee a loan.

# Candidates Expenses

## What Constitutes an Expense?

### *Municipal Elections Act, Section 88.19*

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Costs incurred for goods or services by or under the direction of a person wholly or partly for use in his or her election campaign are expenses.

Without restricting the generality of the above statement, the following amounts are expenses:

- The replacement value of goods retained by the person from any previous election in the municipality and used in the current election.
- The value of contributions of goods and services.
- Audit and accounting fees.
- Interest on loans under Section 88.17 (Campaign Account Loans).
- The cost of holding fund-raising functions.
- The cost of holding parties and making other expressions of appreciation after the close of voting.
- For a candidate, expenses relating to a recount or a proceeding under section 83 (Controverted Elections).
- Expenses relating to a compliance audit.
- 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.
- The cost of election campaign advertisements (within the meaning of section 88.3).

For greater clarity, the cost of holding fund-raising functions does not include costs related to,

- 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,
- Promotional materials in which the soliciting of contributions is incidental.

In the following circumstances, a candidate's expenses for the 2022 regular election that are described in 88.19 (3) paragraphs 7 and 8 may include his or her expenses as a candidate in the 2018 regular election for an office on the same council or local board:



1. The circumstances described in paragraph 4 of subsection 88.24 (1), deficit.
2. The circumstances described in paragraph 5 of subsection 88.24 (1), expenses relating to a recount, etc.

## Candidates Expenses

### *Municipal Elections Act, Section 88.20*

---

An expense shall not be incurred by or under the direction of a person unless he or she is a candidate.

### Only During Campaign Period

An expense shall not be incurred by or under the direction of a candidate outside his or her election campaign period.

Exception, auditor's report

Despite the above from Section 88.20 (2) of the *Municipal Elections Act*, a candidate whose election campaign period ends as described in paragraph 2, 3 or 4 of subsection 88.24 (1) may incur expenses related to the preparation of an auditor's report under section 88.25 after the campaign period has ended.

For greater certainty, expenses, including audit and accounting fees, related to the preparation of an auditor's report after the campaign period has ended constitute campaign expenses.

### Who May Incur an Expense?

An expense may only be incurred by a candidate or an individual acting under the candidate's direction.

### Maximum Amount

During the period that begins on the day a Candidate is nominated and ends on Voting Day, his or her expenses shall not exceed an amount calculated in accordance with the prescribed formula.

A Candidate shall be provided with the maximum campaign expenses amount upon filing of his or her Nomination Papers (see Nominations section).

### Maximum Amount for Parties, etc. after Voting Day

The expenses of a candidate that are for the holding of parties and making other expressions of appreciation after the close of voting shall not exceed an amount calculated in accordance with the prescribed formula.

The formula that is prescribed, must be written so that the amount calculated under it varies based on the maximum amount determined under 88.20 (6) for the office for which the candidate is nominated.

## **Duties of Candidates**

*Municipal Elections Act, Section 88.22*

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The Clerk shall provide the Duties of Candidates at the time of filing of the nomination.

# Third Party Advertising

## Third Party Advertisers and Advertisements

*Municipal Elections Act, Section 88.4*

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### Third Party Advertiser

A Third Party Advertiser means an individual who is normally a resident in Ontario, a corporation that carries on business in Ontario or a trade union that holds bargaining rights for employees in Ontario, and for whom a Notice of Registration for Third Party Advertiser has been certified by the Clerk.

### Third Party Advertisement

A Third Party Advertisement means an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing a candidate or of supporting or opposing a yes or no answer to a question referred to in subsection 8 (1) (2) or (3). This does not include an advertisement by or under the direction of a candidate or an advertisement regarding a submission of a question from a local board in accordance with Section 8 (2).

## Eligibility for Registration

*Municipal Elections Act, Section 88.6 (4), (5) and (6)*

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Registration shall be restricted to the following persons and entities:

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

The following persons and entities are deemed ineligible to register:

- A candidate whose nomination has been filed.
- A federal political party registered under the Canada Elections Act or any federal constituency association or registered candidate at a federal election endorsed by that party.
- A provincial political party, constituency association, registered candidate or leadership contestant registered under the Election Finances Act.
- The Crown in right of Canada or Ontario, a municipality or local board.

A Candidate whose nomination has been filed shall not direct any third party advertisements.

## **Filing the Notice of Registration**

### *Municipal Elections Act, Section 88.6 (2), (7) and (13)*

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Form 7, otherwise known as the Notice of Registration – Third Party Form, shall be filed with the Clerk from May 2, 2022 (the first day for filing Nominations) to Friday, October 21, 2022 (the Friday before voting day) during regular office hours in the following manner:

- In person or by an agent.
- No faxed or other electronically transmitted registration notices will be accepted – original signatures required.
- With proof of identity, as prescribed in *O. Reg. 304/13*, as amended.
- With the declaration of qualification, signed by the individual or by a representative of the corporation or trade union.
- A resolution from the corporation or trade union that authorizes the person or agent to register on their behalf, if applicable.

The Clerk shall administer the Declaration of Qualifications on the Notice of Registration – Third Party Form (Form 7) and the Declaration of Qualification oath to the individual or to the representative of the corporation or trade union. The date and time of filing are to be filled in by the Clerk and initialled by the individual or representative of the corporation or trade union. The Clerk will then sign the Notice of Registration and Declaration of Qualifications.

For registrations for a By-Election, refer to Section 88.6 (8) to (12).

## **Preliminary Maximum Third Party Expenses**

### *Municipal Elections Act, Section 88.21 (15)*

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The Clerk shall calculate the estimated maximum third party expenses for registered third parties and provide a copy to the individual filing the registration. In accordance with the Act, the Clerk's calculation is final.

## **Preliminary Maximum Third Party Expenses for Parties, etc.**

### *Municipal Elections Act, Section 88.21 (9)*

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In accordance with the *Municipal Elections Act*, Section 88.21 (9), upon registering the third party, the Clerk shall give the individual filing the registration a certificate setting out the maximum amount for expenses for parties and expressions of appreciation after voting day. For the preliminary certificate, the

Clerk shall calculate an estimated amount using the number of electors from the Voters List as it existed on Nomination Day for the 2018 municipal election, using the prescribed formula.

The Clerk's determination is final.

## **Notice of Penalties**

### *Municipal Elections Act, Section 88.29 (7)*

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The Clerk shall, at least 30 days before the financial filing date, provide a Notice of Filing Requirements and Penalties – Registered Third Parties Form, EL42 (B), to every third party that has registered in the 2022 Municipal Election in the municipality.

## **Final Calculation of Third Party Expenses**

### *Municipal Elections Act, Section 88.21 (11) to (17)*

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The Clerk shall, after determining from the number of eligible electors from the Voters List, calculate the maximum amount of third party expenses that each registered third party may incur and prepare a Certificate of Maximum Third Party Expenses Form, EL51 (A).

The certificate shall be given to each individual that filed a Notice of Registration for Third Party Advertising in the case of a regular election, on or before September 25, 2022; and in the case of a by-election, within 10 days after the Clerk makes the corrections under subparagraph 4 iii of subsection 65 (4) or subparagraph 3 ii of subsection 65 (5).

The number of electors to be used in this final calculation is to be the greater of the following:

- The number determined from the Voters List from the previous regular election, as it existed on Nomination Day for the 2018 election, adjusted for changes under Section 24 and 25 that were approved as of that day.
- The number determined from the Voters List for the current election as it exists on September 15 in the year of the current election, adjusted for changes under Section 24 and 25 that were approved as of that day.

The Clerk's calculation is final and shall be made in accordance with the prescribed formula in *O. Reg. 101/97*.

## **Final Calculation of Maximum Third Party Expenses for Parties, etc.**

### *Municipal Elections Act, Section 88.21 (9)*

---

On or before September 25, 2022, the Clerk shall give a Final Calculation of the applicable maximum third party expenses to each individual that filed a Notice of Registration for Third Party Advertising using the Certification of Maximum Expenses for Parties, etc. Form, EL51 (B). The number of electors to be used in this final calculation is the greater of the following:

- The number determined from the Voters List from the previous regular election, as it existed on Nomination Day for the 2018 election, adjusted for changes made under Sections 24 and 25 that were approved as of that day;
- The number determined from the Voters List for the current election, as it exists on September 15 in the year of the current election, adjusted for changes made under Sections 24 and 25 that were approved as of that day.

The Clerk's calculation is final and shall be made in accordance with the prescribed formula in *O. Reg. 101/97*.

## **Certification of Notice of Registration**

### *Municipal Elections Act, Section 88.6 (13) and (14)*

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The Clerk will do a review of each notice received to determine qualification and if the notice complies with the Municipal Elections Act, 1996. Once satisfied the third party is qualified, the Clerk will complete the Certification by Clerk section on the Notice of Registration Form (Form 7).

If not satisfied, the Clerk shall reject the notice. The Clerk's decision is final.

## **Advertisements**

### *Municipal Elections Act, Section 88.4, Section 88.5*

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### **Restricted Period for Third Party Advertisements**

The Restricted Period for Third Party Advertisements refers to a time in which those advertisements which would meet the definition of a Third Party Advertisement as described above, are restricted from being published unless the Third Party has completed the registration as a Third Party Advertiser, as described above.

## Restricted Period and Expenses

The Restricted Period for Third Party Advertisements begins on the earliest day that an individual, corporation or trade union is permitted to file a notice of registration as a registered third party (the first business day in May) and ends at the close of voting on Voting Day, October 24, 2022.

Third Parties must do the following during the Restricted Period only:

- File notice of registration and have it certified by the Clerk;
- Await completion of registration and certification before advertising; and,
- Await completion of registration and certification before incurring expenses related to the advertisement.

The expenses for these advertisements cannot exceed the amount calculated under Section 88.21 (registered third parties' expenses).

## Mandatory Information in Advertisements

All Third Party Advertisements shall contain the following information:

- The name of the registered third party.
- The municipality where the registered third party is registered.
- A telephone number, mailing address or email address at which the registered third party may be contacted regarding the advertisement.

## Municipal Authority to Remove Advertisements

*Municipal Elections Act, Section 88.7*

---

If a municipality is satisfied that there has been a contravention of Section 88.3 (candidates' election campaign advertisements), 88.4 (third party advertisements) or 88.5 (mandatory information in third party advertisements), the municipality may require a person who the municipality reasonably believes contravened the section or caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to remove the advertisement or discontinue the advertising.

## List of Registered Third Parties

*Municipal Elections Act, Section 88.12 (9) and (10)*

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A list of registered third parties shall be posted using the Official List of Registered Third Parties Form, as a minimum, on the website and may also include the phone number and email address provided by the

registered third party in the notice of registration filed and, if applicable, a hyperlink to the website of the registered third party.

## **Duties of Registered Third Parties**

*Municipal Elections Act, Section 88.26*

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The Clerk shall provide the Duties of Registered Third Parties to each registered third party at the time of filing.

## **Contributions to Registered Third Parties**

*Municipal Elections Act, Section 88.12 (1) to (5)*

---

A contribution shall not be made in relation to third party advertisements that appear during an election in a municipality unless such contributions are to a registered third party in the municipal election.

A contribution to a registered third party, or to an individual acting under his, her or its direction, shall only be made during the restricted period.

Contributions shall only be made by the following:

- An individual who is normally a resident in Ontario.
- A corporation that carries on business in Ontario.
- A trade union that holds bargaining rights for employees in Ontario.
- The registered third party and, in the case of an individual, his or her spouse. If the spouse of a registered third party is not normally a resident in Ontario, the spouse may make contributions only to the registered third party.

The following shall not make a contribution:

- A federal political party registered under the Canada Elections Act or any federal constituency association or registered candidate at a federal election endorsed by that party.
- A provincial political party, constituency association, registered candidate or leadership contestant registered under the Election Finances Act.
- The Crown in right of Canada or Ontario, a municipality or local board.

## **Acceptance of Contributions**

*Municipal Elections Act, Section 88.12 (6) to (8)*

---



A contribution may be accepted only by a registered third party or an individual acting under the direction of the registered third party.

A contribution may be accepted only from a person or entity that is entitled to make a contribution.

A contribution of money that exceeds \$25 shall not be contributed in the form of cash and shall be contributed in a manner that associates the contributor's name and account with the payment or by money order signed by the contributor.

## **Maximum Contributions to Registered Third Parties**

### *Municipal Elections Act, Section 88.13*

---

A contributor shall not make contributions in relation to third party advertisements exceeding a total of:

- \$1,200 to a registered third party that appears during an election in a municipality;
- \$5,000 to two or more third parties registered in the same municipality;
- Except if the third party is contributing to itself, then the maximum contributions do not apply;
- Except if the contributor is the spouse of an individual that is a registered third party, then the maximum contributions do not apply.

## **Fund-Raising for Registered Third Parties**

### *Municipal Elections Act, Section 88.14*

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Only registered third parties in the municipality may hold a fund-raising function relating to third party advertisements.

Fund-raising functions may only be held during the campaign period.

## **What Constitutes a Contribution?**

### *Municipal Elections Act, Section 88.15*

---

Money, goods and services given to and accepted by an individual, corporation or trade union in relation to third party advertisements, or given to and accepted by another person who is acting under the direction of the individual, corporation or trade union, are contributions.

## Contributions

In addition to the statement above:

- An amount charged for admission to a fund-raising function.
- If goods and services are sold for more than their market value at a fund-raising function, the difference between the amount paid and the market value. However, if the amount received for the goods or services is \$25 or less, the amount is not a contribution.
- If goods and services used in the person's election campaign or in relation to third party advertisements are purchased for less than their market value, the difference between the market value and the amount paid.
- Any unpaid but guaranteed balance in respect of a loan under Section 88.17 (Campaign Account Loans).

## Not Contributions

In addition to the statement above:

- The value of services provided by voluntary unpaid labour.
- The value of services provided voluntarily, under the direction of the person or the individual, corporation or trade union, by an employee whose compensation from all sources for providing the services does not exceed the compensation the employee would normally receive for the period the services are provided.
- An amount of \$25 or less that is donated at a fund-raising function.
- The amount received for goods and services sold at a fund-raising function, if the amount is \$25 or less.
- The amount of a loan under Section 88.17 (Campaign Account Loans).
- For a person referred to in 88.15 (1), the value of political advertising provided without charge on a broadcasting undertaking as defined in section 2 of the Broadcasting Act (Canada), if,
  - It is provided in accordance with that Act and the regulations and guidelines made under it, and
  - It is provided equally to all candidates for office on the particular council or local board.

## Value of Goods and Services

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.

## **Restriction: Use of Own Money**

### *Municipal Elections Act, Section 88.16*

---

A contributor shall not make a contribution of money that does not belong to the contributor.

However, this does not apply to the personal representative of a deceased person whose will directs that a contribution be made to a named candidate or a registered third party, as the case may be, out of funds of the estate.

## **Campaign Account Loans**

### *Municipal Elections Act, Section 88.17*

---

A registered third party and, in the case of an individual, his or her spouse, may obtain a loan in relation to third party advertisements only from a bank or other recognized lending institution in Ontario, to be paid directly into the campaign account. Only the registered third party and, in the case of an individual, his or her spouse may guarantee a loan.

## **What Constitutes an Expense?**

### *Municipal Elections Act, Section 88.19*

---

Costs incurred by or under the direction of an individual, corporation or trade union for goods or services for use wholly or partly in relation to third party advertisements that appear during an election in a municipality are expenses.

Without restricting the generality of 88.19 (3), the following amounts are expenses:

- The replacement value of goods retained by the individual, corporation or trade union from any previous election in the municipality and used in the current election.
- The value of contributions of goods and services.
- Audit and accounting fees.
- Interest on loans under Section 88.17 (Campaign Account Loans).
- The cost of holding parties and making other expressions of appreciation after the close of voting.
- Expenses relating to a compliance audit.
- Expenses that are incurred by a registered third party who is an individual with a disability, are directly related to the disability, and would not have been incurred but for the election to which the expenses relate.
- The cost of third party advertisements (within the meaning of Section 88.3).

For greater certainty, the cost of holding fund-raising functions does not include costs related to,

- 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,
- Promotional materials in which the soliciting of contributions is incidental.

## **Registered Third Parties' Expenses**

### *Municipal Elections Act, Section 88.21*

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An expense shall not be incurred by or under the direction of an individual, corporation or trade union in relation to third party advertisements that appear during an election in a municipality unless he, she or it, is a registered third party in the municipality.

### **Only During Campaign Period**

An expense shall not be incurred by or under the direction of a registered third party in relation to third party advertisements outside the campaign period for the registered third party in relation to the election in the municipality.

### **Exception, Auditor's Report**

Despite subsection 88.21 (2), a registered third party whose campaign period in relation to an election in a municipality ends as described in paragraph 2 or 3 of section 88.28 may incur expenses related to the preparation of an auditor's report under section 88.29 after the campaign period has ended.

For greater certainty, expenses, including audit and accounting fees, described above, constitute third party expenses.

### **Who May Incur Expenses?**

An expense may only be incurred by a registered third party or an individual acting under the direction of the registered third party.

## Maximum Amount

During the campaign period for third party advertisements, the expenses of a registered third party in relation to third party advertisements that appear during an election in a municipality shall not exceed an amount calculated in accordance with the prescribed formula.

A Third Party shall be provided with the maximum third party expenses amount upon registering as a Third Party Advertiser.

## Maximum Amount for Parties, etc. after Voting Day

The expenses of a registered third party are for the holding of parties and making other expressions of appreciation after the close of voting shall not exceed an amount calculated in accordance with the prescribed formula.

The formula that is prescribed must be written so that the amount calculated under it varies based on the maximum amount determined under Section 88.21 (6).

# Scrutinizing the Election

## Scrutineers

### *Municipal Elections Act, Section 16*

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Candidates are permitted to appoint a scrutineer for each ballot box in a Voting Place. Candidates are not required to appoint that number of scrutineers, or any scrutineers at all. If a candidate has appointed one scrutineer for each ballot box, one scrutineer must leave while the candidate is in the Voting Place, except when voting. Scrutineers may observe, but they are not allowed to interfere with voters, attempt to influence how they vote, or ask a voter how they voted. There are no general restrictions on who a candidate can appoint as a scrutineer. An acclaimed candidate is not allowed to be appointed as a scrutineer for another candidate. Candidates must provide each scrutineer with an appointment in writing. Scrutineers may be required to show their appointment document to election officials at the Voting Place. Scrutineers may be required to take an oath of secrecy.

# Election Personnel

## Clerk

### *Municipal Elections Act, Section 12 (1)*

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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.

## Deputy Returning Officers and Other Election Officials

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When it is necessary to conduct an election, the Clerk may appoint a Deputy Returning Officer (DRO) and/or any Election Official(s) for the election and for any recounts that the Clerk considers are required.

The Clerk may delegate to a Deputy Returning Officer or other Election Official(s) any of the Clerk's power or duties in relation to the election as he or she considers necessary. The Clerk may continue to exercise the delegated powers and duties despite the delegation. The delegation shall be in writing and shall utilize the prescribed, Delegation of Powers and Duties of Clerk Form.

There shall be a substitute qualified person appointed to attend to the election details in the event the Clerk is unable to be present to conduct procedures on Voting Day.

The Returning Officer is required to complete and sign the Oath of Returning Officer Form prior to May 1, of an election year.

All other election officials and workers are required to complete and sign the relevant Preliminary and Final Oath Form for their given appointments, before and after having served in that capacity, respectively.

# Proxy Voting

## Proxy Vote Procedure

### *Municipal Elections Act, Section 44*

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The appointment of a voting proxy must follow the established procedures for the Town of Amherstburg, in accordance with the *Municipal Elections Act*, Section 44, requirements.

#### **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

#### **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); 2021, c. 4, Sched. 11, s. 24.

#### **Timing**

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

(a) the time for the withdrawal of nominations under section 36 has expired for all offices for which the election is being conducted; and

(b) the time when the clerk has certified all persons qualified to be nominated under subsection 35 (2). 2016, c. 15, s. 33.



# Voting Procedures

## Electors Requiring Assistance

### *Municipal Elections Act, Section 12.1*

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In accordance with the Act, the Clerk shall have regard for the needs of electors and candidates with disabilities in conducting the 2022 Municipal Election in the Town of Amherstburg. The Clerk will prepare a plan regarding the identification, removal and prevention of barriers that affect electors and candidates with disabilities and shall make the plan available to the public before voting day. These details can be found in the 2022 Accessible Municipal Election Plan.

Also, within 90 days after voting day, the clerk shall prepare a report about the identification, removal and prevention of barriers that affect electors and candidates with disabilities and shall make the report available to the public.

The below highlight additional assistance which may be requested/required at a polling station:

### Oral Oath to Vote with Assistance

A voter who requires such assistance to vote may ask the Election Official for assistance. The Election Official shall require the voter making the request to take the Oral Oath to Vote with Assistance, and then assist and/or vote as directed by the voter. Any other person present must remove themselves until the voter finishes instructing the Election Official.

### Oral Oath of Friend/Support Person of Elector

In lieu of the Election Official assisting a voter, the voter may request that a friend accompany them to vote. Any friend or support person who is permitted to vote shall be required to take the Oral Oath of Friend/Support Person of Elector. A person shall only be allowed to act as a friend for one voter.

### Oral Oath of Interpreter

Where the Election Official does not understand the language of a voter, an interpreter, provided by the voter, shall take the Oral Oath of Interpreter and shall translate the oaths as well as any lawful questions put to the voter.

# DS-100 Vote Tabulator Procedure

## *Municipal Elections Act, Section 42 (1), (3), (4)*

The following procedure is also available as a standalone document.

### Introduction and Application

The Town of Amherstburg By-law 2021-078, passed under section 42 (1) of the *Municipal Elections Act, 1996*, authorizes the use of Optical Scanning Vote Tabulators during the 2022 Amherstburg Election for the purposes of counting votes and voting. In accordance with section 42(3) and (4) of the Act, this section defines the procedures for the use of voting and vote-counting equipment during the 2022 Town of Amherstburg Election as established by the Clerk and Returning Officer for the Town of Amherstburg.

Where this procedure does not provide for any matter, the matter shall be addressed in accordance with the principles of the Municipal Elections Act. These principles are generally recognized as being:

- (a) The secrecy and confidentiality of the voting process is paramount;
- (b) The election shall be fair and non-biased;
- (c) The election shall be accessible to the voters;
- (d) The integrity of the process shall be maintained throughout the election;
- (e) Certainty that the results of the election reflect the votes cast; and,
- (f) Voters and Candidates shall be treated fairly and consistently.

The definitions and procedures provided apply to the municipal election to be held on October the 24<sup>th</sup>, 2022 and all advance voting opportunities provided.

The DS-100 Vote Tabulator Procedure applies to the Returning Officer and any Election Official appointed by the Returning Officer, as well as all candidates, scrutineers, and eligible voters. The DS-100 Vote Tabulator Procedure shall be updated as required at the Clerk's discretion.

### Definitions

In this procedure,

**"Act"** means the *Municipal Elections Act, 1996*, c.32, S.O. 1996.

**"Advance Voting"** means certain dates and times prior to Voting Day where an Advance Voting Place is open to the public for voting, namely October 5<sup>th</sup>, 2022 and October 15<sup>th</sup>, 2022.

**"Advance Voting Place"** means a Voting Place that is open to the public for voting prior to Voting Day, for 2022, the Libro Credit Union Centre will be utilized.

**“Ballot”** means an approved piece of paper or like material containing the names of the Candidates and the office they are running for, as well as any questions submitted to the electors as authorized by the Act.

**“Ballot Box”** means a box (cardboard or otherwise) provided to an Election Official for the purpose of securely storing Ballots and other election documents.

**“Ballot Marking Device”** means a device that produces a human and machine-readable marked paper Ballot from a blank sheet of paper, completely indistinguishable from a paper Ballot marked by hand.

**“Ballot Marking Pen”** means the pen provided to the Voter by an Election Official for the purposes of marking a Ballot within the Defined Areas on the Ballot.

**“Ballot Statement”** means a statement completed by an Election Official at the close of the Voting Place on which all Ballots either used, unused, declined, cancelled, defective or taken from the Voting Place, are recorded and reconciled to the total number of Ballots provided to the Election Official by the Town Clerk.

**“Candidate”** means a person who has filed a Nomination Paper that has been certified by the Town Clerk.

**“Deputy Returning Officer (DRO)”** means a person whose duties will include assisting with the opening and closing of the poll; processing voters, issuing ballots, administering oaths and managing the voters’ list.

**“Defined Area”** means the area within a circle, oval or other enclosed geometric shape that is filed in by the Voter in order to cast a vote.

**“Election Official”** means a person who has been delegated or assigned election duties/responsibilities by the Town Clerk.

**“Election Reporting System”** means the hardware and software used to capture voting results recorded on the Flash Memory Card (or Smart Card) within a Vote Tabulator and then totaled with results from other Voting Places and displayed to the public.

**“Election Supervisor”** means a person delegated duties and responsibilities by the Town Clerk with respect to the direction and management of multiple Voting Places in certain Voting Locations or at Advance Voting Places.

**“Elector”** means a person who meets the qualifications to vote as determined by Section 17 of the Act and appears on the Town of Amherstburg Voters’ List, or is added to the List during the Revision Period, at the Advance Voting Place or Voting Place.

**“Registration Clerk/Deputy Returning Officer (RCDR)”** means a person whose duties include assisting with the opening and closing of the poll; directing voters to the proper polling station; assisting voters in

filling in the prescribed Form to add their name to the voters' list; and providing relief to the DRO and PC when needed.

**“Report Tape”** means the printed tape produced by the Vote Tabulator before and after the close of voting indicating the total votes cast for each Candidate and all questions on the Ballot.

**“Scrutineer”** means a person appointed, in writing, by a Candidate to scrutinize the voting process at one or more Voting Places.

**“Secrecy Folder”** means a paper folder in which a ballot can be placed to conceal the names of the candidates and the marks upon the face of the ballot and to expose the initials of the Deputy Returning Officer (DRO).

**“Smart Card”** means a memory card that is inserted and removed in order to collect and store tabulated totals.

**“Special Voting Place”** means a Voting Place on the premises of a retirement home which on Nomination Day has beds that are occupied by 50 or more persons, or a Voting Place on the premises of institutions, which on Nomination Day have beds that are occupied by 20 or more persons who are disabled, chronically ill or infirm.

**“Tabulator Deputy Returning Officer (TDRO)”** means a person whose duties will include assisting with the set-up; opening and closing of the poll; receiving ballots from voters and feed ballots into the vote tabulator; troubleshooting tabulator issues; returning equipment, supplies and ballots to the Town Clerk; and, unless otherwise stated the TDRO will also act as Elections Supervisor at all Regular and Advance Polls.

**“Town Clerk”** means the individual appointed by Town Council as the Town Clerk and the individual responsible for conducting elections in the Town of Amherstburg pursuant to section 11(1) of the Act.

**“Vote Tabulator”** means an apparatus that optically scans a specified area on the ballots to read the votes and tabulate the results.

**“Vote Tabulator Station”** means the location where the vote tabulating equipment accepts Ballots, records votes and tabulates the results.

**“Voter”** means an Elector who accepts a Ballot at a Voting Place.

**“Voters' List”** means a document prepared by the Town Clerk, which lists the names and voting entitlement of eligible electors as provided by the Municipal Property Assessment Corporation (MPAC) in accordance with the Act.

**“Voting Area”** means the area of the Voting Place where a Voter marks their Ballot in secrecy behind a screened enclosure.

**“Voting Day”** means October 24, 2022.

**“Voting Place”** means a physical location (building) and property (where appropriate) designated by the Town Clerk through by-law or otherwise where Voters may attend to vote.

**“Voting Place Ballot Statement”** means a statement completed by the Election Supervisor after the close of voting on Voting Day on which all Ballots either used, unused, cancelled, declined, defective, or taken from the voting place for each Election Official are recorded and reconciled to the total number of Ballots provided by the Town Clerk.

**“Voting Subdivision”** means a defined geographical area within the Town of Amherstburg where a qualified Elector resides or is the owner or tenant of land there or the spouse of such owner or tenant of land.

## General Elections

Candidates in the 2022 Municipal Election will be elected by general vote. Voters residing across the entire Town of Amherstburg will elect candidates for all offices.

## Voting Subdivisions

For election purposes, the Town of Amherstburg is divided into Voting Subdivisions. The Town Clerk shall prepare and distribute the Voter’s List setting out each Voting Subdivision and the names of all Electors eligible to vote within each Voting Subdivision. In conjunction with the Voters’ List, the Town Clerk will prepare and make available a map identifying the boundaries of all Voting Subdivisions within the Town of Amherstburg.

## Voting Place

Voters residing within a Voting Subdivision shall attend a Voting Place as designated by the Town Clerk to cast their Ballot. Voting Places shall be located within or in close proximity to the Voting Subdivision. Voting Places shall be located in facilities that are accessible to persons with disabilities and well known to Electors residing in the area. On Voting Day, Voting Places will be open for the Electors to vote from 10:00 a.m. until 8:00 p.m.

The Town Clerk shall establish Special Voting Places on the premises of retirement homes, which on Nomination Day have beds that are occupied by 50 or more persons. The Town Clerk shall also establish Special Voting Places on the premises of institutions, which on Nomination Day have beds that are occupied by 20 or more persons who are disabled, chronically ill or infirm. The Town Clerk may reduce hours of voting for Special Voting Places on Voting Day.

Advance Voting Places shall be established where Electors can cast their Ballot prior to Voting Day. Public notice will be provided concerning the location, dates and voting hours for each Advance Polling Station.

After September 1, 2022, the Town Clerk shall prepare and make available a map identifying the boundaries of all Voting Subdivisions and the Voting Places where Electors within each Voting Subdivision are to vote.

## Election Officials

The Clerk may appoint election officials for the purposes of undertaking any requirement of the DS-100 Vote Tabulator Procedure and may designate the Clerk's power and duties and establish their titles and duties. The Clerk may continue to exercise the delegated power and duties, despite the delegation.

## Ballots

Composite ballots shall be used for the election which shall include all eligible offices distinguished by school support type. Five ballot types shall be utilized consisting of English-Public, English-Separate, French-Public, French-Separate and Non-Resident.

Ballots will be printed on 8.5" x 11" paper. The Ballot size may be increased to 8.5" x 14" or larger where there are a large number of Candidates. The Town Clerk at her sole discretion may determine that an individual Ballot be used for one or a combination of offices. The Town Clerk has sole discretion to select the paper stock and colouring of the Ballot(s). Ballots will contain the names of all certified Candidates except where a Candidate has been elected by acclamation. The Candidates' names for each office shall appear on the Ballot in alphabetical order based on their surnames. There will be a defined oval area to the right of each Candidate's name suitable for the Voter to mark the Candidate of their choice.

## Vote Tabulators

Each Voting Place other than the Special Voting Places shall have at least one optical scan Vote Tabulator for the purpose of scanning Ballots and tabulating votes. Vote scanning and tabulating equipment will not be used at Special Voting Places due to the small number of Electors. All Ballots cast at Special Voting Places will be sealed in the Ballot Box and brought to the Voting Place in the Voting Subdivision where the Special Voting Place is located and tabulated using the Vote Tabulator at that Voting Place, and will be counted as soon as possible after the close of the Special Voting Place poll.

## Programming the Tabulators

- (a) The Vote Tabulators shall be programmed so that a printed record of the number of votes cast for each candidate can be produced.
- (b) The vote tabulators shall be programmed so that the following ballots are returned to the operator:
  - i. A ballot without any votes in the specified voting spaces, as determined by a vote tabulator, with a message "Blank Ballot."
  - ii. A ballot with more than the specified voting spaced marked for each office as determined by a vote tabulator with message "Over Voted."

- iii. A ballot that is damaged or defective or has been marked in such a way that it cannot be properly processed by a vote tabulator with the message, “Ballot Misread.”

## Testing/Demonstration of Vote Tabulators

Prior to voting day, the Clerk shall test the vote tabulators to ensure that they will accurately count the votes cast for all candidates. When testing the vote tabulators, adequate safeguards shall be taken to ensure that the system or any part of it that is used for processing and tabulating votes is isolated from all other applications or programs and that no remote devices are capable of gaining access to the vote tabulators. Candidates may attend a demonstration of the vote tabulators. The Clerk shall give adequate notice of the date, time and location of the demonstration.

The test shall be conducted as follows:

- (a) Load the “Smart Cards” into the vote tabulators (On the front left panel of the tabulator);
- (b) Tabulate a pre-audited group of ballots, including ballots that fall into each of the categories of ballots described above, and ballots on which a predetermined number of valid votes are recorded for each candidate; and
- (c) Compare the output of the tabulation against the pre-audited results. The Clerk shall, at the successful completion of the test, certify the results, zero out and seal the “smart card” to the vote tabulator;
- (d) If the Clerk detects any error in the test, the cause of the error shall be determined and corrected and the test repeated until an errorless count is made and certified by the Clerk.

After Nomination Day and before Voting Day, the same testing procedure as followed during the initial verification will be conducted using a pre-audited set of the Ballots that are the same as those to be used at Advance Voting and on Voting Day. Upon successful completion of the testing regime, the Vote Tabulator shall be certified for use at Advance Voting events and on Voting Day.

## Election results Reporting System Certification

Once each Vote Tabulator has been certified, the results as recorded in the Vote Tabulator’s Smart Card will be uploaded into the Election Reporting System residing on the same computer to be used on Voting Day. If the results produced by the Election Reporting System are not the same as those printed by the Vote Tabulator, the vendor shall be contacted and all issues resolved. Testing shall continue until the results displayed by the Election Reporting System accurately reflect those results produced by the Vote Tabulators certified for use at the Advance Voting events and on Voting Day. Only once the Elections Results Report System displays the same results as those printed by each certified Vote Tabulator shall the system be certified for use on Voting Day.

## Procedure at the Polling Place

### Prior to Opening the Poll

Every Voting Place, except Special Voting Places, shall have one Election Supervisor and at least 2 other Election Officials, one will be responsible for the proper functioning and use of the Vote Tabulator. Prior to opening the Voting Place, the Election Officials shall complete the following:

1. Check the Vote Tabulator identification located on the Vote Tabulator to verify it has been assigned to the correct Voting Place;
2. In the presence of any Scrutineers, inspect the Ballot Box to ensure it is empty and then seal the Ballot Box to ensure Ballots may only enter the Ballot Box through the Vote Tabulator;
3. One Election Official will power on the Vote Tabulator and cause it to print a copy of all totals in its Flash Memory Card on a Report Tape confirming zero (0) totals for all Candidates and any questions on the Ballot;
4. Two Election Officials will verify that the heading at the top of the Report Tape reports the correct Voting Place and lists all Candidates' offices and any questions on the Ballot in the exact order as they appear on the Ballot;
5. Two Election Officials will check the public counter on the operator screen of the Vote Tabulator to ensure it displays zero (0) ballots processed;
6. Two Election Officials, along with any Candidates or Scrutineers who are present and choose to do so provided it does not prohibit or delay the opening of the Polling Station, will sign the Report Tape;
7. If the Report Tape heading or offices are incorrect, or the Report Tape totals are not zero (0) for all Candidates and any questions on the Ballot, or the public counter showing the number of Ballots processed does not display zero (0), the Election Supervisor shall immediately notify the Town Clerk and conduct the vote using the back-up compartment (auxiliary compartment) of the Ballot Box until the Vote Tabulator functions accurately, or is replaced by one that does.

### Distributing Ballots to Electors to Mark

1. The Town Clerk shall designate DRO's to initial a Ballot before the Ballot is provided to the voter.
2. The DRO shall provide each Voter with an initialed Ballot and Secrecy Folder and instruct the Voter with respect to the voting process.
3. Upon receiving the Ballot and Secrecy Folder, the Voter will:
  - a. Proceed to the designated Voting Area;
  - b. Using the Ballot Marking Pen provided, vote by completely filling in the Defined Area (Oval, circle, or other enclosed geometric shape) to the right of the Candidate(s) name they intend to vote for and completely fill in the Defined Area to the right of the "Yes" or "No" response to any questions on the Ballot;
  - c. Insert the Ballot into the Secrecy Folder allowing for only the DRO's initials to be visible;
  - d. Leave the Voting Area without delay; and,



- e. Deliver the Secrecy Folder containing the Ballot to the TDRO at the Vote Tabulator Station.

## Tabulating Marked Ballots

Procedures for tabulating the marked ballots are as follows:

- (a) After marking the ballot in the voting compartment, the elector shall insert the ballot into the secrecy folder and deliver the secrecy folder containing the ballot to the operator or election official.
- (b) The operator or election official shall, in the presence of the elector and without removing the ballot from the secrecy folder:
  - i. Verify that the ballot has been initialed by the DRO or other designated election official, and;
  - ii. Insert the secrecy folder containing the ballot, with the initials of the DRO or other designated election official, into the feed area of the vote tabulator until the vote tabulator draws the ballot from the secrecy folder in full view of the elector, or;
- (c) If the vote tabulator fails to operate, the operator or election official shall:
  - i. Insert the ballot into the auxiliary compartment of the ballot box; and,
  - ii. When the vote tabulator becomes operational, and in the presence of the supervisor, insert the ballot into the feed area of the vote tabulator.
- (d) If a ballot is returned by the vote tabulator and the elector who delivered the ballot is present, the operator or election official shall reinsert the ballot into the feed area of the vote tabulator. If the vote tabulator again returns the ballot the operator or election official shall advise the voter of this and enquire of the elector if she/he would like to correct the marking of the ballot and whether they require assistance. If no assistance is required, the operator or election official shall advise the voter to return the ballot to the DRO who shall mark the ballot accordingly across the face of the ballot and issue a new ballot to the voter.
- (e) If the elector declines to accept another ballot, or indicates this the way he/she wants to vote, the operator or election official shall, without showing the face of the ballot to any scrutineers present, use the vote tabulator “accept button” and insert the ballot into the feed area of the vote tabulator until the vote tabulator draws the ballot from the secrecy folder.
- (f) If a ballot is returned by the vote tabulator and the elector who delivered the ballot is not present, the operator or election official shall, without showing the face of the ballot to any scrutineers present, use the vote tabulator “accept button” and insert the ballot into the feed area of the vote tabulator until the vote tabulator draws the ballot from the secrecy folder.

## Closing the Poll on Election Day

If a Vote Tabulator has been used to tabulate the votes cast in a Voting Place, the Election Supervisor and one other Election Official will, after the close of voting, check the back-up compartment (auxiliary compartment) of the Ballot Box to ensure all Ballots have been tabulated, then immediately:

1. Secure the Vote Tabulator against receiving any more Ballots. This is done by opening the access slot and inserting the DS100 key, turning the key to open/close polls and pressing the polls close button below the LCD screen.
2. The Election Officials shall cause the Vote Tabulator to print three Report Tapes indicating the total votes for each Candidate and any questions on the ballot.
3. Sign the Report Tapes along with any Candidates or Scrutineers who are present and wish to initial the Report Tape.

The first report tape will be placed by an Election Official inside the provided envelope. The TDRO shall then remove the associated memory card from the Vote Tabulator and place this in the envelope. This envelope is then sealed and signed by the Site Supervisor and TDRO. Election Officials and any Candidates or Scrutineers present are then invited to sign the seal. A pair of Election Officials who will bring it immediately to the Libro Centre to have its contents uploaded into the Election Reporting System.

The second copy of the signed Report Tape generated after the close of voting is to be placed in the Ballot Box.

The third report tape is used by the Election Supervisor and the DRO's to reconcile all Ballots using the Voting Place Ballot Statement. Once the Voting Place Ballot Statement is completed, both the statement and the Report Tape are placed in the Election Results Envelope to be delivered to the Town Clerk.

Once reconciled, Two Election Officials will then package and transport the Vote Tabulators along with the election reports to the Town Hall.

Each DRO in the Voting Place will:

1. Complete the DRO Ballot Statement, in duplicate, indicating the number of:
  - a. Ballots received from the Town Clerk;
  - b. Unused Ballots;
  - c. Declined Ballots;
  - d. Cancelled Ballots;
  - e. Defective Ballots;
  - f. Ballots taken from the Voting Place; and,
  - g. Ballots processed by the Vote Tabulator.

Most polling subdivisions contain two (2) voting stations. In these subdivisions, the statements from the two (2) DRO's regarding "Ballots Received from the Town Clerk", "Unused Ballots", "Declined Ballots", "Cancelled Ballots", "Defective Ballots"; "Ballots taken from the Voting Place" and "Ballots Processed by the Vote Tabulator" shall be added together and deemed to be one document for the purposes of ballot balancing by the Election Supervisor.

2. Provide the Election Supervisor with the original copy of the completed Ballot Statement;

3. Provide the Election Supervisor with the Ballot Envelope containing a duplicate copy of the completed Ballot Statement to be placed in the Ballot Box along with other specified election materials and documents, including separate sealed envelopes containing all:
  - a. Unused Ballots;
  - b. Declined Ballots;
  - c. Cancelled Ballots;
  - d. Defective Ballots;
4. Place the remaining specified election documents and supplies in the container provided for that purpose.

The Election Site Supervisor will:

1. Ensure all calculations and results are set out on the Ballot Statements are completed accurately, signed and dated;
2. Using the Ballot Statements, complete the Voting Place Ballot Statement ensuring all Ballots reconcile correctly with the Ballot Statements;
3. Place the original copies of the signed Voting Place Ballot Statement and Ballot Statements in the Election Results Envelope;
4. Place into the Ballot Box a duplicate copy of the signed Voting Place Ballot Statement and all Ballot Envelopes containing duplicate copies of all completed Ballot Statements along with separate sealed envelopes containing all:
  - a. Unused Ballots;
  - b. Declined Ballots;
  - c. Cancelled Ballots;
  - d. Defective Ballots;
5. Place other designated documents and election supplies into the Ballot Box;
6. Seal the Ballot Box and personally deliver, alongside one other Election Official, to the Town Clerk the Election Results Envelope. Deliver the sealed Ballot Box and the containers containing all other election materials and supplies to Town Hall.

If a Vote Tabulator has been used to tabulate votes cast in a Voting Place but the tabulation of the votes cannot be completed because the Vote Tabulator is not operating or cannot be made to operate within a reasonable time following the close of the voting, the Town Clerk will, after the close of voting:

1. Seal the Ballot Box in such a manner that it cannot be opened or any Ballots be deposited in it without breaking the seal;
2. Secure the Vote Tabulator against receiving any more Ballots;
3. Personally deliver the Ballot Box, Ballots, forms and election supplies to a place designated by the Town Clerk where a back-up Vote Tabulator is located;
4. Follow the steps set out in this procedure to ensure the totals of the back-up Vote Tabulator are zero (0) for all Candidates and questions on the Ballot;

5. Using the back-up tabulator, assisted by the Election Supervisor, the Election Official responsible for the Tabulator will then process the remaining ballots. When complete, the Election Official and Election Supervisor will follow the Close of Voting Procedures outlined above.

## Advance Voting

One or more Election Supervisors will supervise each Advance Vote. At the first Advance Vote, the Election Supervisor will open the Voting Place following the opening procedures noted above.

At the close of each Advance Vote, the Election Supervisor will proceed as follows:

1. Check the back-up compartment (auxiliary compartment) of the Ballot Box for Ballots to ensure that all Ballots have been processed;
2. Secure the Vote Tabulator against receiving more Ballots;
3. Print and sign the two (2) listings from the Vote Tabulator indicating the total number of Ballots processed by the Vote Tabulator on that day;
4. Return to the Town Clerk the signed listing of processed Ballots printed by Vote Tabulator, Vote Tabulator, sealed Ballot Box(es), forms, election documents and supplies for safekeeping;
5. Deliver to the Town Clerk a list of persons who voted at the Advance Poll.

Prior to the opening of the next Advance Vote, the Election Supervisor will proceed as follows:

1. Activate the Vote Tabulator;
2. Print a list of total Ballots processed and verify that this total is equal to the number of Ballots processed according to the list printed at the close of the previous day of Advance Voting;
3. If the number of Ballots processed is equal to the total as listed at the close of the last Advance Vote, sign and display the list along with the signed lists from the previous Advance Votes in public view and continue to process Ballots through the Vote Tabulator;
4. If the number of Ballots processed is not equal to the total as listed at the close of the last Advance Vote, notify the Town Clerk immediately and process all Ballots using the back-up compartment (auxiliary compartment) of the Ballot Box until the issue is resolved.

The total of all votes cast at the Advance Votes will be disclosed after 8:00 p.m. on Voting Day.

Vote Tabulators deployed at all Advance Voting Places and regular Voting Places located at the Libro Credit Union Centre on Voting Day will be equipped with the Ballot Marking Device and other assistive devices to permit the casting of ballots by individuals with accessibility needs. The Vote Tabulator will record the vote in the same manner as a paper Ballot.

## Recounts

As per section 60(1) of the Act, a recount shall be held in the same manner as the original count. If a recount of votes is held in the Town of Amherstburg, Optical Scanning Vote Tabulators will be used in

accordance with these procedures. A vote tabulator shall be tested before the recount in the manner described in the Programming the Tabulators section of this procedure.

In accordance with section 42(4)3ii of the Act, ballots cannot be examined as votes are being re-tabulated.

# Notice of Results

## Providing Notice of Results

### *Municipal Elections Act, Section 55 (3)*

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The unofficial results of each candidate shall be made available by the Clerk as soon as practical after 8:00 p.m. on Monday, October 24, 2022, Voting Day at the Election Headquarters and the same unofficial results shall be posted on the Town website.

The Clerk shall send each school board's election results to the respective Clerk handling the school board election as soon as possible after the close of Voting on Voting Day.

## Certification and Declaration of Election Results

### *Municipal Elections Act, Section 55 (4)*

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

## Publication of Information

### *Municipal Elections Act, Section 55 (4.1)*

---

As soon as possible after Voting Day, the Clerk shall make the following information available at no charge for viewing by the public at a conspicuous location at Town Hall (271 Sandwich Street South) and on the Town website:

1. The number of votes for each candidate.
2. The number of declined and rejected ballots.
3. The number of votes for the affirmative or negative on a by-law or question.

# Recount

## Recount Procedures

*Municipal Elections Act, Section 56-64*

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A recount shall be conducted in the same manner as the original count, whether manually or by vote counting equipment in accordance with Section 60 (1) of the *Municipal Elections Act*, unless ordered otherwise by a judge as per Section 60 (3).

## Recount in Accordance with Act

*Municipal Elections Act, Section 56-64*

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A recount is required when:

- There is a tie vote where both or all candidates cannot be declared elected (automatic).
- The votes for the affirmative or negative on a by-law are equal (automatic).
- The votes for two or more answers to a question are equal (automatic).

Within 30 days after the declaration of results:

- By resolution of Council (for Council offices or questions, or by-laws submitted by Council).
- By resolution of local board (for offices on a local board or questions or by-laws submitted by a local board).
- By order of the Minister (for questions submitted by the Minister).
- By order of the Superior Court of Justice.

## Recount Timing

*Municipal Elections Act, Section 58 (4)*

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The recount shall be held within 15 days after the Clerk's declaration of the results of the election or resolution or order to hold a recount is passed or made.

## **Who Conducts Recount**

*Municipal Elections Act, Section 56, 63*

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

## **Votes for Candidates to be included in a Recount**

*Municipal Elections Act, Section 56, 57, 58*

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All votes for all candidates in the contested race, or answers to a question or by-law will be counted.

## **Persons Entitled to be Present at a Recount**

*Municipal Elections Act, Section 61*

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- The Clerk and any other election official appointed to assist with the recount;
- Every certified candidate for the office involved;
- The applicant, if any, who applied for the recount;
- Legal Counsel for any of the above;
- One scrutineer for each recount station established by the Clerk for every certified candidate for the office involved and the applicant, who applied for the recount;
- Where the recount applies to a by-law or question, the scrutineers as appointed by Council, a local/school board or the Minister;
- Where scrutineers are appointed under Section 61 (3) or (4), an equal number must be appointed to represent supporters and opponents of the by-law and for each possible answer to the question;
- Any other person may be present with the Clerk's permission.

## **Notification of Recount Date, Time and Place**

*Municipal Elections Act, Section 56, 57, 58 and O.Reg. 101/97*

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

- All Certified Candidates for the Office which is the subject of the recount;
- Where a resolution is involved, the Council or local/school board which passed the resolution;



- The Minister when an order has been made;
- The applicant in the case of a court order;
- In the case of a recount concerning an office, by-law or question in respect of which electors of another municipality are entitled to vote, the Clerk who was responsible for the conduct of the vote in other municipality;
- Notice of recount will be given by registered mail or personal service.

## **Process at Recount**

### *Municipal Elections Act, Section 61, 62 and O. Reg. 101/97*

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At the time set for the recount to commence, the Clerk should outline the procedures as follows:

- The ballot boxes will be distributed to the counting stations as they are required throughout the count;
- The rules prescribed by the Minister or established by the Clerk are to be followed and should be explained to everyone present for the recount.
- Disputed ballots will be shown to the Clerk who, after any representation by a candidate, their legal counsel or scrutineer, will determine if the ballot and the votes are to be counted.

Upon completion of the recount, the Clerk shall announce the results of the recount.

Persons authorized to be in attendance at the recount may also be at the announcement of the results of the recount.

## **Continuing Tie Vote – After Recount Procedures**

### *Municipal Elections Act, Section 62 (3) and 63 (10)*

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

- (a) The Clerk shall determine the texture and quality of the paper used for this process and each candidate or the candidates' lawyer and/or scrutineer will have an opportunity to examine the paper to be used to inscribe the names of the candidates;
- (b) The Clerk shall inscribe the name of each candidate on a similar size paper and the candidates, the candidates' lawyer and/or scrutineer, without touching the paper, examine the same. In addition, all persons present will have the opportunity to examine the box which will be used for conducting the lot;
- (c) Upon acceptance by all candidates, the candidates' lawyer and/or scrutineer, that the processes outlined in paragraphs (a) and (b) have been adhered to, the Clerk shall fold the papers bearing

each candidate's name twice in two (2) equal parts and shall deposit these papers, in full view of all persons present and authorized to attend, in an open-end box that will be acceptable to all persons present.

In the event of a conflict or difference of opinion on any of the above noted elements, the Clerk shall be the final arbiter of the acceptability of same, and, his or her decision is final.

## **Declaration by Clerk**

### *Municipal Elections Act, Section 62 (4)*

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Unless an application has been made for a judicial recount, the Clerk, on the 16<sup>th</sup> day after the recount is completed, shall declare the successful candidate or candidates elected or will declare the result of the vote with respect to a by-law or a question.

The results of the recount shall be posted, at a minimum, in the Municipal Office and on the Town website by noon, the day following the recount being completed using the Declaration of Recount Results Form. The Clerk will provide same to everyone notified of the recount, ensuring the results of the recount are sent as a written notice.

## **Costs of Recount**

### *Municipal Elections Act, Section 7 (3) and (4)*

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The costs incurred by the Clerk to conduct a recount are to be paid by the municipality, local board, upper-tier municipality or the Minister as soon as possible after the Clerk has signed a certificate verifying the amount. The municipality is to be reimbursed for its reasonable costs in the following situations:

- A regular election when the recount is for:
  - An office on a local board or an upper tier municipality;
  - A By-law or question submitted by an upper-tier municipality; or
  - A question submitted by a local board or by the Minister
- A By-Election for a local board or for an upper-tier municipality; or for the Minister, or a recount in such a by-election.

Any expenses incurred by a candidate will be the responsibility of the candidate (e.g. legal counsel in attendance on behalf of the candidate).

# Candidate Financial Statements

## Candidates Financial Statements

### *Municipal Elections Act, Section 88.25 (1) and (9)*

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All Candidates shall file with the Clerk, the Financial Statement – Auditor’s Report, Form 4, on or before 2:00 p.m. on March 31, 2023, reflecting the Candidate’s election campaign finances as of December 31 in the year of the election. The earliest Form 4 can be filed is the first day the Municipal Office is open in January 2023.

At least 30 days before the filing date, but no later than March 1, 2023, the Clerk shall (by registered mail) give every Candidate whose nomination was filed notice of:

- All filing requirements of this section;
- The candidate’s entitlement to receive a refund of the nomination filing fee if he or she meets the requirements of Section 34; and,
- The penalties set out in subsection 88.23 (2) and 92 (1).

The notice shall be given on Notice to Candidate of Filing Requirements, Form EL42.

## Notice of Default

### *Municipal Elections Act, Section 88.23 (1) – (3) and 88.25*

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A Notice of Default, Form EL43, shall be given to the candidate by registered mail, and if the candidate was elected, to the relevant Council or local board, in the event that candidate has not submitted the Form 4 – the Financial Statement – Auditor’s Report, on or before 2:00 p.m. on March 31, 2023.

The Clerk shall make available to the public the name of the candidate and a description of the nature of the default.

As soon as possible after April 30<sup>th</sup> in the year following a regular election, and 90 days after Voting Day in a by-election, the Clerk shall make available to the public on a website or in another electronic format a report setting out all candidates in an election and indicating whether each candidate complied with section 88.25 (Candidates Financial Statements, etc.).

For questions regarding campaign finances, the Clerk should direct the candidate to Sections 88.22 – 88.25, 88.30 – 88.32.

## **Extension of Campaign Period**

*Municipal Elections Act, Section 88.23 (6) to (8)*

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For further information, refer to the *Municipal Elections Act, 1996*.

## **Refund of Nomination Filing Fee**

*Municipal Elections Act, Section 34*

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A candidate is entitled to receive a refund of the nomination filing fee if he or she files the Financial Statement and Auditor's Report, each in the prescribed form, on or before 2:00 p.m. as of March 31, 2023.

# Third Party Financial Statements

## Third Party Statements

*Municipal Elections Act, Section 88.29 (1) and (7)*

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All registered third parties shall file with the Clerk, the Form 4 – Financial Statement – Auditor’s Report on or before 2:00 p.m. on March 31, 2023, reflecting the registered third party’s campaign finances in relation to third party advertisements as of December 31 in the year of the election. The earliest Form 4 can be filed is the first day that Town Hall is open in January 2023.

At least 30 days before the filing date, but no later than March 1, 2023, the Clerk shall give every registered third party that registered in the municipality, by registered mail, notice of:

- All filing requirements of this section; and,
- The penalties set out in subsections 88.27 (1) and 92 (4).

## Notice of Default

*Municipal Elections Act, Section 88.27 (1) and (2), 88.29*

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A Notice of Default shall be given to the registered third party by registered mail, where no Form 4 – Financial Statement – Auditor’s Report is filed on or before 2:00 p.m. on March 31, 2023.

The Clerk shall make available to the public the name of the registered third party and a description of the nature of the default.

As soon as possible after April 30<sup>th</sup> in the year following a regular election, or 75 days after Voting Day in a by-election, the Clerk shall make available to the public on a website or in another electronic format, a list of all registered third parties for the election, along with an indication of whether each has filed a financial statement and the auditor’s report under Section 88.29 (1).

For questions regarding third party finances, the Clerk should direct the registered third party to Section 88.26 – 88.29, 88.30 – 88.32.

## Extension of Campaign Period

*Municipal Elections Act, Section 88.27 (3) to (5)*

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For further information, refer to the *Municipal Elections Act, 1996*.

# Compliance Audit Committee

## Establish Election Compliance Audit Committee

*Municipal Elections Act, Section 88.37*

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In accordance with the *Municipal Elections Act*, Section 88.37, a Council shall establish a committee for the purposes of the *Municipal Elections Act, 1996*, before October 1 in the year of an election.

The Clerk shall draft Terms of Reference for the Election Compliance Audit Committee and the Council shall adopt the Election Compliance Audit Committee Terms of Reference through a Municipal By-law prior to October 1<sup>st</sup>, 2022 for the 2022 Municipal Election.

Council shall approve the appointment of members by resolution or through a by-law.

## Review of Contributions to Candidates

*Municipal Elections Act, Section 88.34 (1) to (4)*

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The Clerk shall review the contributions reported on the financial statements submitted by a candidate to determine whether any contributor appears to have exceeded any of the contribution limits under Section 88.9 (Maximum Contributions to Candidates).

## Report, Contributions to Candidate for Council

As soon as possible after May 1<sup>st</sup>, 2023, the Clerk shall prepare a report identifying each contributor to a candidate for office on a council who appears to have contravened any of the contribution limits under section 88.9 and,

- (a) If the contributor's total contributions to a candidate for office on a council appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to the candidate; and,
- (b) If the contributor's total contributions to two or more candidates for office on the same council appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to all candidates for office on the same council.

The Clerk shall prepare a separate report in respect of each contributor who appears to have contravened any of the contribution limits under section 88.9.

The Clerk shall forward each report prepared to the Compliance Audit Committee.

See Section 88.30 (2) for supplementary filing date provisions.

## **Decision of Compliance Audit Committee Regarding Candidates**

*Municipal Elections Act, Section 88.34 (8)*

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Within 30 days after receiving a report regarding Contributions to Candidates, the Compliance Audit Committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

## **Review of Contributions to Registered Third Parties**

*Municipal Elections Act, Section 88.36 (1) to (4)*

---

The Clerk shall review the contributions reported on the financial statements submitted by a registered third party to determine whether any contributor appears to have exceeded any of the contribution limits under Section 88.13 (Maximum Contributions to Registered Third Parties).

## **Report, Contributions to Registered Third Parties**

As soon as possible after May 1<sup>st</sup>, 2023, the Clerk shall prepare a report identifying each contributor to a registered third party who appears to have contravened any of the contribution limits under Section 88.13 and,

- (a) If the contributor's total contributions to a registered third party that is registered in the municipality appear to exceed the limit under Section 88.13, the report shall set out the contributions made by that contributor to the registered third party in the municipality in relation to third party advertisements; and,
- (b) If the contributor's total contributions to two or more registered third parties that are registered in the municipality appear to exceed the limit under section 88.13, the report shall set out the contributions made by that contributor to all registered third parties in the municipality in relation to third party advertisements.

The Clerk shall prepare a separate report in respect of each contributor who appears to have contravened any of the contribution limits under Section 88.13.

The Clerk shall forward each report prepared to the Compliance Audit Committee.

See Section 88.30 (2) for supplementary filing date provisions.

## **Decision of Compliance Audit Committee Regarding Registered Third Parties**

*Municipal Elections Act, Section 88.36 (5)*

---

Within 30 days after receiving a report regarding contributions to registered third parties in the municipality, the Compliance Audit Committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

## **Compliance Audit Applications**

*Municipal Elections Act, Section 88.33 (1) and 88.35 (1)*

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An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate or a registered third party has contravened a provision of the Act relating to election campaign finances, may apply for a compliance audit of the candidate's or registered third party's election campaign finances, even if the candidate or registered third party has not filed a financial statement.

## **Compliance Audit Committee**

*Municipal Elections Act, Section 88.33 (4), (14)*

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Within 10 days after receiving the Compliance Audit Application, the Clerk shall forward the application to the Compliance Audit Committee.

Within 10 days after receiving the Auditor's Report, if applicable, the Clerk shall forward the application to the Compliance Audit Committee.



# Election Records

## Public Records

*Municipal Elections Act, Section 88 (5), (10), (11)*

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Despite anything in the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), documents and material filed with the Clerk or any other election official under the *Municipal Elections Act, 1996*, 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, by appointment.

### Restrictions

No person shall use information obtained from public records described above, except for election purposes.

### Access to the Voters List

The Voters List shall not be posted in a public place and can be used only for election purposes. Due to MFIPPA, details about another person, other than the person an Election Official is speaking with, should not be provided, including whether or not the individual is on the Voters List.

## Candidate's Election Records

Use of online, electronic and paper versions of the Voters List, Interim List of Changes to the Voters List, Voter Participation Status reports and all other information containing personal voter information shall be protected by the candidate and shall not be used for any purpose other than the 2022 Municipal Election. All Voter information obtained by the candidate during the 2022 Municipal Election shall be returned to the Clerk for destruction after the election.

If records are shared by the candidates with others (campaign workers) an oath shall be administered by the candidate and all shared records must be signed for when received and when returned, with the record of same provided to the Clerk alongside the records for destruction.

# Municipal Election Records

## *Municipal Elections Act, Section 88*

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### Destruction of Records

After 120 days from declaring the results of the election under Section 55, the Clerk shall destroy the ballots in the presence of two witnesses. The Clerk may also destroy any other documents and materials related to the election except those listed below under the Retention of Records section of the manual.

The Clerk shall complete the Destruction of Election Records Form and the Witnesses shall sign same.

### Retention of Records

The ballots and any other documents or materials shall not be destroyed if:

- A court orders that they be retained; or,
- A recount has been commenced and not finally disposed of.

In addition, documents filed under Section 88.25 (candidate's financial statements, etc.), 88.29 (financial statements, etc. of registered third parties) and 88.32 (return of surplus for subsequent expenses) shall be retained until the members of the Council or Local Board elected at the next regular election have taken office.

# 2022 Municipal Election Emergency Procedures

## Emergency Procedures Subject to Change

Due to the nature of emergent situations, this procedure is subject to change and review without notice in order to maintain the integrity and transparency of the election and the health and safety of all people.

## Emergency Procedures

The Clerk may declare an emergency if he/she is of the opinion that circumstances have arisen that are likely to prevent the election being conducted in accordance with this Act.

On declaring an emergency, the Clerk shall make such arrangements as he/she considers advisable for the conduct of the election.

The arrangements made by the Clerk, if they are consistent with the principles of this Act, prevail over anything in this Act and the regulations made under it.

The emergency continues until the Clerk declares that it has ended.

If made in good faith, the Clerk's declaration of emergency and arrangements shall not be reviewed or set aside by a court on account of unreasonableness or supposed unreasonableness.

It shall be the policy that in the event of an emergency, as determined by the Clerk, that the Clerk shall to the best of their ability provide notice of such emergency. All information pertaining to the emergency shall be communicated to the public through appropriate channels and publicly posted, if possible.

If required, the Clerk may consider alternate option for the following:

- Reporting results
- Notification of electors
- Election Officials
- Voting Period (ex. Delay of Voting Day, extension of Voting hours or day/days).
- Alternative Facilities

If voting is prevented from occurring at a voting station for any reason, such as but not limited to, a severe weather event, power failure, gas leak, civil unrest, fire, flooding, etc., the Clerk may invoke the emergency situation section of the *Municipal Elections Act*. When invoking such an emergency situation the Clerk shall complete a Declaration of Emergency Situation Form, EL55.

## **Pandemic Protocols**

Due to the evolving nature of pandemics, should Pandemic Protocols need to be utilized it should be understood that they are subject to change without notice, under the discretion of the Clerk. The protocols should not be considered an exhaustive list, and where protocols do not exist to respond to a situation, best practices and collective common sense should prevail. The Pandemic Protocols represent steps which may be utilized, as needed, upon declaration of an emergency situation.

# Corrupt Practices

## Corrupt Practices

*Municipal Elections Act, Section 90 – 94.1*

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No person shall, directly or indirectly:

- Offer, give, lend or promise or agree to give or lend any valuable consideration, in connection with the exercise or the non-exercise of an elector's vote;
- Advance, pay or caused to be paid money intending that it be used to commit an offence related to in the bullet above, or knowing that it will be used to repay money used in that way;
- 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;
- 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;
- 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;
- Offer, give, lend or promise or agree to give or lend any valuable consideration in order to induce a person to become a candidate, refrain from becoming a candidate or withdraw his or her candidacy.

## Reporting Corrupt Practices

All valid complaints or knowledge of an offence shall be reported immediately to the Police for investigation of corrupt practices.

As such, the Clerk has agreed to the following:

- That all complaints about actions which may contravene the provisions of the Municipal Elections Act, either verbally or written, will be reviewed by the Clerk and, if viewed by the Clerk to be valid and not frivolous, will be reported to the Police.
- The most senior officer of the Police will be advised that all such valid complaints will be turned over to his/her office for further investigation.

## Offences

### *Municipal Elections Act, Section 89, 90*

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A person is guilty of an offence if he or she:

- Votes without being entitled to do so;
- Votes more times than this Act allows;
- Votes in a Voting Place in which he or she is not entitled to vote;
- Induces or procures a person to vote when that person is not entitled to do so;
- Before or during an election, publishes a false statement of a candidate's withdrawal;
- Furnishes false or misleading information to a person whom this Act authorizes to obtain information;
- Without authority, supplies a ballot to anyone;
- A person who contravenes any provision of the Act or a regulation under the Act or a by-law passed by a municipality under the Act;
- Attempts to do something described above.

The following are guilty of an offence that constitutes a corrupt practice:

- A Deputy Returning Office or other Election Official who knowingly miscounts the votes or knowingly prepares a false statement of the votes;
- 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;
- A Clerk or other Election Official who willfully fails to preform a duty imposed by the Act.

# Penalties

## Penalties – Elector

### *Municipal Elections Act, Section 90 (2)*

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An offence described under Corrupt Practices, Section 90 (3) of the Act, 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 the Act.

## Penalties – Candidate

### *Municipal Elections Act, Section 91 (1)*

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

However, if the presiding judge finds that the person committed the corrupt practice or offence under the Criminal Code of Canada without any intent of causing or contributing to a false outcome of the election, clause (b) does not apply.

## Penalties – Individual

### *Municipal Elections Act, Section 94 (1)*

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An individual who is convicted of an offence is liable to the following penalties in addition to any other penalty provided for:

- For any offence, a fine not more than \$25,000;
- For any offence other than a corrupt practice, the penalties described in Subsection 88.23 (2) – Effect of Default by Candidate and 88.27 (1) – Effect of Default by Registered Third Party.
- For an offence under Section 90 (Corrupt Practices: Certain Offences Committed Knowingly), imprisonment for a term of not more than 6 (six) months;

- For any offence that the presiding judge finds that the individual committed knowingly, imprisonment for a term of not more than 6 (six) months.

## **Penalties – Trade Unions**

### *Municipal Elections Act, Section 94 (2)*

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A corporation or trade union that is convicted of an offence is liable to a fine of not more than \$50,000 in addition to any other penalty provided for.



## Discretionary Powers of the Clerk

The *Municipal Elections Act, 1996*, has a number of implied and direct discretionary authority provided to the Clerk, summarized in brief below:

Section of Act	Short Description and Summary of Broad and Discretionary Authority
<b>General Provisions</b>	
7; 8(7); 45	The Clerk has authority and control over the costs incurred for an election.
7(3)1	The Clerk shall bill a local board or upper tier municipality for the costs for a recount in a regular election for a local board or a municipality, a by-law or question submitted by an upper tier or local board or the Minister.
7(12)	The Clerk of a municipality can incur expenses in respect to a question which are required or authorized by this Act to be incurred.
8(6)	The Clerk is responsible for giving notice to the public for any question on the ballot, regardless of whether it was initiated by the municipality, an upper tier or a Minister.
11(1)	The Clerk is responsible for conducting municipal elections. Unless otherwise provided, the Clerk has broad discretionary authority to determine the form and method of communication for notices, forms and other information provided under the Act.
12(1)	The Clerk may provide for any matter or procedure that is not specifically provided for in the Act or Regulations.
12(2)	The Clerk may establish forms such as oaths, statutory declarations and has the power to require their use.
12(3)	The Clerk may require a person to furnish proof of identity, qualification or any other matter.
12(4)	The power given to the Clerk does not include the power to require a person for the purposes of Section 52(1) (Voting Procedure) to furnish proof of identity in addition to what is prescribed.
12.1	The Clerk shall have regard to the needs of electors and candidates with disabilities.
12.1(2)	The Clerk shall prepare a plan regarding the identification, removal and prevention of barriers that affect electors and candidates with disabilities and shall make the plan available to the public before Voting Day in a regular election.
12.1(3)	Within 90 days after Voting Day in a regular election, the Clerk shall prepare a report about the identification, removal and prevention of barriers that affect electors and candidates with disabilities.
13(1)	The Clerk shall determine the form, manner and timing of any notice or other information required by the Act.
22(2)	For the purposes of subsection (1) – correction of errors in the preliminary list, the Clerk may use any information that is in the local municipality’s custody or control.
53(1)	The Clerk has discretion in determining what constitutes an emergency or circumstances that will undermine the integrity of the election.

53(2)	The Clerk has discretion in a declared emergency to make any arrangements deemed necessary for the conduct of the election.
53(4)	The Clerk determines when the emergency has passed.
55(4.1)	The Clerk shall, as soon as possible after Voting Day, make information available on the number of votes for each Candidate, the number of declined and rejected ballots and the number of votes (yes or no) on a by-law or question and determine website or electronic formatting.
<b>Cost of Elections</b>	
7(2), 4; 8(7)	The Clerk has authority and control over the finances of an election.
<b>Notice of By-laws and Questions</b>	
8(6)	The Clerk shall determine the form of certification when giving the result of the vote on a question or by-law.
<b>Certification of Vote Results</b>	
8(9)	The Clerk shall determine the form and method of notice to electors of by-laws and questions to be placed on the ballot.
<b>Information to Electors</b>	
45(8)	The Clerk may issue instructions to Deputy Returning Officers (DRO) regarding attending on an elector in an institution or retirement home.
13(2)	The Clerk may determine what information is necessary to inform electors how to exercise their rights under the Act.
<b>Appointment of Election Officials</b>	
15(1)	The Clerk shall appoint a Deputy Returning Officer (DRO) for each Voting Place.
15(1)	The Clerk may appoint other election officials in addition to DROs. The Clerk determines what instruction and training is provided to election officials.
<b>Delegation of Authority</b>	
15(2), (3), (4)	The Clerk may delegate to election officials in writing, any of the Clerk's powers and duties, however the Clerk may continue to exercise the delegated powers and duties, despite delegation.
<b>Creation of Voting Subdivisions</b>	
18(1)	The Clerk may divide the municipality into voting subdivisions.
18(2)	If the Clerk creates voting subdivisions, he or she shall inform MPAC.
<b>Correction of Preliminary List of Electors</b>	
19(1)(1.1)	The Clerk and the Municipal Property Assessment Corporation, may agree on a date for the delivery of the Preliminary List of Electors which must be a date earlier than September 1.
22(1)	The Clerk may correct any obvious errors on the Preliminary List of Electors, and shall notify MPAC of the corrections.
22(2)	For the purposes of subsection (1), the Clerk may use any information that is in the local municipality's custody or control.
25(4)	The Clerk shall determine the format and manner of the written application to remove a deceased person's name.
<b>Reproduction of Voters List</b>	
23(2)(a)(b)	The Clerk shall have the Voters List reproduced on or before September 1 <sup>st</sup> and determine where and at what time applications for revisions to the Voters List may be made.

<b>Revision of Voters List</b>	
24(1)(2)	From September 1 <sup>st</sup> to the close of Voting on Voting Day, a person may make an application to be added or removed from the Voters List or have the information on the Voters List relating to that person amended.
24(3)	The Clerk may approve or deny applications for revision to the Voters List.
27(1)(a)(b)	During the period beginning September 15 and ending September 25, the Clerk shall prepare an interim list of changes to the Voters List approved on or before September 15, and give a copy to each certified candidate and to each person who received a copy of the Voters List under Section 23.
<b>Certification of Voters Lists, As Revised</b>	
28(1)	The Clerk shall prepare and certify the Voters List for use in each Voting Place.
<b>Nominations</b>	
32	The Clerk shall give notice of the offices for which persons may be nominated and the nomination procedures under the Act.
33(1.3)	The Clerk is entitled to rely upon the information filed by the candidates (endorsements).
35(2), (3)	The Clerk shall certify the nomination of qualified persons, and reject the nomination if not satisfied the person is qualified.
35(4)	The Clerk can determine the form and method of giving notice when a nomination is rejected and shall give notice to the person who sought to be nominated and to all candidates for the office, as soon as possible.
35(5)	The Clerk's decision to certify or reject a nomination is final.
<b>Acclamations</b>	
37(1), (2)	The Clerk can determine the method of declaring acclamations.
<b>Notice of Election</b>	
40(a), (b), (c), (d)	The Clerk shall give notice to the electors and determine the form and method of giving such notice about the location of voting places, dates and times open, and the manner in which electors may use voting proxies, if applicable, and if alternative voting methods, the manner in which electors may use the alternative voting methods.
<b>Ballot Form</b>	
41(1)	The Clerk shall provide ballots in the prescribed form.
41(2)3	The Clerk can agree to permit another name that a candidate uses to appear on the ballot.
41(2)5	If the surnames of two or more Candidates for an office are identical or in the Clerk's opinion so similar as to cause possible confusion, the Clerk shall differentiate the Candidates on the ballots as the Clerk considers appropriate.
41(3)	The Clerk shall change some or all of the ballots to facilitate voting by the visually impaired without assistance.
41(4)	The Clerk can decide to use separate or composite ballots.
<b>Voting or Vote Counting Equipment or Alternative Voting Method</b>	
42(3)(a)(i), (ii)	Where there is a by-law providing for voting or vote counting equipment or an alternative
42(3)(b)	The Clerk can determine the method for providing a copy of the procedures and forms to candidates and shall provide a copy of the procedures and forms to each candidate when his or her nomination is filed.

<b>Advance Vote</b>	
42(2)	The Clerk shall establish the date or dates, number, location and hours of Advance Voting.
43(5)(b)(ii)	The Clerk determines how to keep safe any Advance Vote ballot boxes and all other material and documents relating to the Advance Vote.
43(7)	The Clerk determines the method of updating Voters Lists to reflect Advance Voting and ensures that the Voters Lists for all Voting Places are updated to reflect voting that took place at an advance vote.
<b>Proxies</b>	
44(7)	The Clerk may determine what is required to verify that persons are qualified to appoint and be appointed as a voting proxy and if satisfied that the person who appointed the voting proxy is entitled to do so, shall apply a certificate in the prescribed form to the appointing document.
<b>Voting Places and Procedures</b>	
45(1), (3), (5)	The Clerk has discretion in identifying the number and location of voting places and designating the area.
45(2)	In establishing the locations of Voting Places, the Clerk shall identify strategies that ensure that each voting place is accessible to electors with disabilities.
45(7)1,2,3	A voting place shall be located in an institution for the reception or vocational training of members or former members of the Canadian Forces; an institution on September 1 <sup>st</sup> where 20 beds or more are occupied by persons who are disabled, chronically ill or infirm; and in a retirement home in which 50 beds or more are occupied on September 1 <sup>st</sup> .
45(8)	The Clerk may issue instructions to the DROs regarding attending on an elector in an institution or retirement home.
45(9)	The Clerk shall issue instructions to DROs regarding attending on electors with a disability, including mobility impaired, anywhere within the defined voting place.
46(2)	The Clerk may establish specific Voting places to open on Voting Day before 10:00 a.m.
46(3)	The Clerk may establish reduced voting hours for a Voting Place that is only for the use of residents of the institution or retirement home.
47(1)(a)	The Clerk has discretion to go or to remain in voting places during voting or when votes are being counted.
<b>Emergency</b>	
53(1)	The Clerk has discretion in determining what constitutes an emergency or circumstances that will undermine the integrity of the election.
53(2)	The Clerk has discretion in a declared emergency to make any arrangements deemed necessary for the conduct of the election.
53(4)	The Clerk determines when the emergency has passed.
<b>Opening Ballot Box</b>	
55(3)	The Clerk shall determine the results of the election by compiling the statements of results received from the DRO.
55(4)	The Clerk shall, as soon as possible after voting day, declare the elected candidate(s) and the result of the vote on any by-law or question.

55(4.1)	As soon as possible after Voting Day, the Clerk shall make information available on number of votes for each candidate, number of declined and rejected ballots, number of votes (yes or no) on a by-law or question.
55(5)	The Clerk, in the presence of the DRO, can decide to open a ballot box to assist with interpreting the statement of results.
<b>Recounts</b>	
56(1), (1.1), (2)	The Clerk shall hold a recount in accordance with policy within 15 days after the declaration of results.
59	The Clerk may decide to include other candidates for an office in a recount.
61(1)1	The Clerk may be present at a recount in the case of a tie vote, or any policy passed, when the Council, Board or Minister requires a recount and when the Ontario Superior Court of Justice orders a recount in accordance with Sections 56, 57, 58 or 63.
61(2)1	The Clerk may be present at a recount for a by-law or question.
61(6)	The Clerk determines disputes concerning the validity of a ballot or the counting of votes in a ballot.
61(7)	The Clerk may permit others to be present at a recount.
62(3); 63(10)	If the recount leaves two candidates tied, the Clerk shall choose the successful candidate by lot.
<b>By-Elections</b>	
65(4)1	The Clerk sets the date of Nomination Day, in the case of a by-election.
65(5)1	The Clerk sets the date of voting if the by-election relates to a question or by-law.
<b>Financial Reporting</b>	
33.0.1(1)	The Clerk determines the form of the preliminary certificate of maximum campaign expenses (upon the filing of a person's nomination) and shall give the person, or their agent filing the nomination for the person, a certificate of the applicable maximum amount as of the filing date.
33.1	The Clerk shall, before Voting Day, give notice of the penalties under Section 88.23(2) and Section 92(1) related to election campaign finances to each person nominated for an office.
88.20(13)(a)(b)	The Clerk determines the form and method of delivery of certificate of maximum campaign expenses.
88.22(3)	The Clerk determines the form and process of the notice of default.
88.22(9)	The Clerk determines the form and method of delivery of notice to candidates of the campaign expense filing requirements and shall give notice at least 30 days before the filing date.
<b>Election Records</b>	
88(2)(a)(b)	When the 120-day period has elapsed, the Clerk shall destroy ballots and may destroy other documents and materials related to the election.
88(4)	Financial statements must be retained until the next election.
88(9.1)	The Clerk shall make the documents filed under Section 88.25, 88.29 and 88.32 available at no charge for viewing by the public on a website or in another electronic format as soon as possible after the documents are filed.