



2021 Division Road North
Kingsville, Ontario N9Y 2Y9
(519) 733-2305
www.kingsville.ca
kingsvilleworks@kingsville.ca

Date: January 16, 2017

To: Mayor and Council

Author: Jennifer Astrologo, Director of Corporate Services
Jennifer Alexander, Deputy Clerk – Administrative Services

RE: Municipal Election Act Amendments and Ranked Ballots

Report No.: CS-2017-003

AIM

To provide Council with a review of the changes to the *Municipal Elections Act, 1996* ("MEA") as a result of *Bill 181, Municipal Elections Modernization Act* ("Bill 181") and to provide a recommendation that Council maintain the existing first-past-the-post election model for the 2018 municipal election.

BACKGROUND

On May 28, 2015 the Ministry of Municipal Affairs and Housing commenced its review of the MEA. Input was received from a variety of stakeholders, including the Association of Municipalities of Ontario, the Association of Municipal Managers, Clerks, and Treasurers of Ontario and members of the general public. The public consultation process ended on July 27, 2015.

Bill 181 was introduced to the legislature on April 4, 2016 and received Royal Assent on June 9, 2016. The amendments constitute the most significant update to the MEA and the conduct of municipal elections in Ontario within the last 20 years. One of the most drastic changes to the MEA for the 2018 municipal election is the ability of municipalities to implement a ranked ballot election system.

The amendments to the election system may be grouped in the following categories:

- a) Election Calendar and Nomination Period
- b) Clerk's Authority
- c) Election Signs and Advertising
- d) Third Party Advertising

- e) Campaign Finances
- f) Recounts
- g) Ranked Ballots

DISCUSSION

1. Election Calendar and Nomination Period

The Chart below outlines the changes to key dates and timelines in the election calendar.

Action Item	New Provisions	Old Legislation
By-law: Use of Alternative Voting Methods	May 1, 2017	June 1, 2018
By-law: Use of Ranked Ballots	May 1, 2017	N/A
Clerk's Policies and Procedures for voting/alternative voting	December 31, 2017	June 1st, 2018
Clerk determines single or batch elimination-ranked ballots	December 31, 2017	N/A
Approval of Ballot Question (by By-law):	March 1, 2018	180 days prior to voting day
*Ordered by Upper-Tier/Minister	*May 1, 2018	June 1, 2018
Opening of nominations and registrations for third party advertisers	May 1, 2018	First day of business after January 1 st (January 2 nd , 2018)
Use of Corporate Resources Policy	May 1, 2018	Not previously required
Final date for nominations (Nomination Day)	4 th Friday in July (July 27, 2018)	2 nd Friday in September
Close of Third party advertising	October 19, 2018	N/A

Of particular interest are the timelines associated with ranked balloting (discussed more fully below), as those decisions must be made by May 1, 2017. Additionally, the Town must ensure that it has a by-law passed to permit alternative voting measures (i.e. mail in ballot, electronic voting etc.) By-law 78-2006 permits the Town to use alternative voting measures; however, Corporate Services will review the By-law to determine whether it requires updating. Any amendments will be presented to Council for consideration prior to May 1, 2017, in accordance with the timelines established in the amended *MEA*.

Additionally, the nomination period opens May 1, 2018 rather than the first day of business of 2018 as was previously provided for. Therefore, campaigning will not begin until May 1.

Candidates must also obtain 25 supporting signatures in order to run as a candidate, which is a change from the 2014 election in which no signatures were required.

2. Clerk's Authority

The changes to the *MEA* enhance the authority of the Clerk in relation to various administrative decisions that are required during the election process. The Clerk now has the sole discretion to:

- a) Establish advance voting dates, locations and hours;
- b) Establish reduced voting hours for voting places and long-term care facilities; and
- c) Manage the voters' list, including the removal of deceased persons, adding electors or amending the list of electors and the manner in which such additions, amendments or deletions are completed.

3. Election Signs and Advertising

Pursuant to section 88.3 of the *MEA*, an election advertisement is defined broadly to include any broadcast, print, electronic or other medium that promotes or supports the election of a candidate. The section also requires that candidates be identified in any campaign advertisement for which they are responsible. Additionally, publishers and broadcasters are will be required to maintain a record of information (such as a copy of the advertisement, the name of the candidate etc.) for a period of 4 years following the date the advertisement appears and shall permit public access to that information.

Landlords and condominium corporations are not allowed to prohibit tenants or owners from displaying campaign signage in their windows.

4. Third Party Advertising

The amendments provide a framework for third party advertising (section 88.3 of the *MEA*) and require that they register with the clerk in the municipality where they wish to advertise. Individuals, corporations and trade unions are all permitted to register as third party advertisers; however, the following are not permitted to register:

- a) Municipal election candidate;
- b) A federal political party registered under the *Canada Elections Act* (Canada) or any federal constituency association or registered candidate at a federal election endorsed by that party;
- c) A provincial political party, constituency association, registered candidate or leadership contestant registered under the *Elections Finances Act*;
- d) The Crown in right of Canada or Ontario, a municipality or local board; and
- e) Anyone under the direction of a municipal election candidate.

Similar to candidate advertising, third party advertisers will also be required to provide mandatory information to broadcasters and publishers, which information shall be maintained for a period of 4 years following the date the advertisement appears. Additionally, third party advertisers shall be subject to spending limits and many of the campaign rules which apply to candidates shall also apply to third party advertisers (i.e. contribution limits from corporations and individuals). Finally, although corporations and unions are permitted to make contributions to third party advertisers, they are not permitted to make contributions to candidates.

5. Campaign Finances

The amendments to the *MEA* help to ensure that accountability and transparency are maintained in the finance aspect of the election. As identified above, the *MEA* prohibits corporations or trade unions from making contributions to candidates. However, they are permitted to make contributions of up to \$750 to any one registered third party advertiser, and no more than \$5,000 to two or more registered third party advertisers in the same municipality. These limits are the same for contributions to candidates

Candidates are no longer required to open a bank account if they do not receive any contributions or incur any campaign expenses. Additionally, candidates will be entitled to a refund of the nomination fee if their financial statement is filed on time. However, financial statements filed after the deadline are subject to a \$500 late filing fee and will not be refunded the nomination filing fee. Candidates are permitted to correct financial statements up until the filing deadline.

The Clerk is now required to review the contributions reported in the financial statements submitted, prepare a report, indicating whether each candidate complied with the financial reporting requirements, and make this report available to the public.

6. Recounts

In previous municipal elections a recount could only be conducted under the following circumstances:

- I. Where the counting of ballots resulted in a tie vote;
- II. Where the municipality, local board, or Minister of Municipal Affairs and Housing has passed a resolution to order a recount;
- III. Where the electors' request for a recount has been granted by the Superior Court of Justice.

The *MEA* now gives the Clerk the authority to adopt a policy to define additional circumstances in which a recount would be conducted. Such policy must be adopted by May 1, of the election year.

7. Ranked Ballots

The most extensive changes in the *MEA* are the provisions permitting the use of ranked ballots in future elections. Prior to this amendment, the "first-past-the-post" model of

elections was the only option for Ontario municipalities. However, municipal councils now have the option of passing a by-law to permit the use of ranked ballot elections as early as the 2018 election.

In the first-past-the-post model, candidates with the highest number of votes are elected. Ranked ballot elections require candidates to achieve a certain percentage of votes to be elected (discussed more fully below). If a municipality chooses to use the ranked ballot model, it must be used for all offices on the Council. Ranked ballots are not common place and have never before been implemented in any municipal, provincial, or federal election in Canada. It has been used sparingly in the United States, and various places in Europe. Attached at Appendix “A” are documents published on the Ministry of Municipal Affairs and Ministry of Housing website which explain ranked ballots.

The regulations with respect to ranked ballot elections are in effect and govern the process that a municipality must follow to consider and implement the ranked ballot model. Before passing a by-law, the following must be considered:

- a) The cost to the municipality of conducting the elections;
- b) The availability of technology, such as voting equipment and vote-counting equipment and software, for conducting the elections; and
- c) The impact the proposed by-law would have on election administration.

Additionally, the following information must be available to the public, via open houses and public meetings, before any proposed by-law is passed:

- a) A detailed description of how the elections would be conducted, including a description of how votes would be distributed to candidates based on the rankings marked on ballots;
- b) An estimate of the costs of conducting the elections;
- c) A description of the voting equipment and vote-counting equipment being considered; and
- d) A description of any alternative voting method being considered.

There are two (2) types of ranked ballots: a single member election in which one individual is elected to the post (i.e. mayor or deputy mayor) and multi-member election in which more than one candidate is elected (i.e. election of councillors). In order to be elected candidates must cross the “threshold” number of votes. For the offices of Mayor and Deputy Mayor (single member election), this means that those candidates would be required to obtain 50% +1 of the total number of votes received. Rather than placing one vote, voters would rank their choices. If a candidate does not reach the calculated threshold, the candidate with the lowest number of votes would be dropped and those votes would be re-distributed to the remaining candidates. This process would continue until a successful candidate is elected.

In a multi-member election, the threshold is calculated as follows:

$$\text{Threshold} = \text{number of votes}/(\text{number of candidates to be elected} + 1) + 1$$

The system of voting is similar to a single member election in that voters would rank the candidates on the ballot. If a candidate receives a surplus of votes, a fraction of those votes are redistributed to the second choice candidate. The surplus votes are redistributed prior to the elimination of the candidate with the fewest votes. If the required number of candidates have not crossed the threshold, the candidate with the fewest votes is eliminated and those votes redistributed. This cycle continues until all candidates are elected.

Depending on the voting method selected by Council, the results of a ranked ballot election may not be determined on election night, and it may take several days to declare the winners. In addition to declaring the candidates elected to office, the Clerk will be required to report out to the public on the following information:

- a) The number of ballots cast;
- b) The number of ballots that were declined;
- c) The number of ballots in which the votes for the office were rejected;
- d) The threshold calculated for the office;
- e) The number for votes cast for each candidate at the first round of vote counting;
and
- f) The results of each round of vote counting, including the number of votes received by each continuing candidate for the round and the number of exhausted ballots

8. Summary

Bill 181 has resulted in significant changes to the election landscape; the most significant being the option to implement a ranked ballot election system.

Implementing a ranked ballot election is not simple and requires significant research and preparation on the part of election administration. No municipality in Ontario, or across the country, has used this method of election and Administration is unaware of any municipality electing to pursue this method of election for 2018.

Not only would an open house and public meeting need to be scheduled to adequately provide the public with the information prescribed by the legislation, but ongoing staff and financial resources would be required leading up to, and on, Election Day to educate the public about a ranked ballot system. It is not feasible to properly implement a ranked ballot election for the 2018 municipal election given the timelines for passing a by-law, the various requirements and considerations prescribed by the legislation to educate the public, and the research and the resources currently available to deliver an election. Moreover, a ranked ballot election would almost certainly significantly increase the election costs.

Based on the foregoing, it is recommended that Kingsville maintain the current first-past-the-post method of election and that the clerk continue to monitor the growth and implementation of ranked ballot elections across Ontario.

LINK TO STRATEGIC PLAN

To encourage leadership and management that will provide the direction to achieve our goals and maximize the effectiveness of our strategies.

FINANCIAL CONSIDERATIONS

If Council directs staff to implement ranked balloting for the 2018 election, there will be increased costs associated with administrative support for public consultation and education, and may be additional associated with equipment rentals, electronic systems and software. Attached in Appendix B are the estimated costs, provided by the previous Clerk Ms. Orton, for a first-past-the-post election model.

CONSULTATIONS

The Ministry of Municipal Affairs
AMCTO

RECOMMENDATION

That Council receives the Municipal Elections Act Amendments and Ranked Ballots report for information and that the first-past-the-post election model is maintained for the 2018 municipal election.

Jennifer Alexander

Jennifer Alexander,
Deputy Clerk- Administrative Services

Jennifer Astrologo

Jennifer Astrologo, B.H.K. (hons), LL.B
Director of Corporate Services

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.
Chief Administrative Officer