

**THE MUNICIPAL ELECTIONS ACT, 1996**  
**Implied And Direct Discretionary**  
**Authority Of the Clerk**

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**THE MUNICIPAL ELECTIONS ACT, 1996**  
**Implied And Direct Discretionary Authority Of The Clerk**

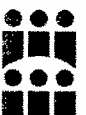
SECTION	SHORT DESCRIPTION
<b>SUMMARY OF BROAD DISCRETIONARY AUTHORITY</b>	
7; 8(7)	The Clerk has authority and control over the costs incurred for an election.
7(3)1	The Clerk shall bill a local board or upper tier municipality for the costs for a recount in a regular election for a local board or municipality, a by-law or question submitted by an upper tier or local board.
8(6)	The Clerk is responsible for giving notice to the public for any question on the ballot, regardless of whether it was initiated by a municipality, an upper tier or the Minister.
11(1)	The Clerk is responsible for conducting elections. Unless otherwise provided, the Clerk has broad discretionary authority to determine the form and method of communication for notices, forms and other information provided 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.
13(1)	The Clerk shall determine the form, manner and timing of any notice or other information required by the Act.
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>COST OF ELECTIONS</b>	
7(2), (4); 8(7)	The Clerk has authority and control over the finances of an election.
<b>NOTICE OF BY-LAWS AND QUESTIONS</b>	
8 (6)	The Clerk shall determine the form and method of notice to the electors of by-laws and questions to be placed on the ballot.
<b>CERTIFICATION OF VOTE RESULTS</b>	
8(9)	The Clerk shall determine the form of certification when giving the result of the vote.
<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>SECTION</b>	<b>SHORT DESCRIPTION</b>
<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.
<b>CORRECTION OF PRELIMINARY LIST OF ELECTORS</b>	
22	The Clerk may correct the Preliminary List of Electors, and shall notify MPAC of the corrections.
<b>REPRODUCTION OF VOTERS' LIST</b>	
23(2)(a)	The Clerk shall determine the method of reproducing the Voters' List.
<b>REVISION OF VOTERS' LIST</b>	
23(2)(b)	The Clerk may determine at what time and where applications to revise the Voters' List can be made.
24(1)	The Clerk can determine the forms used for revision of the Voters' List.
24(3)	The Clerk may approve or deny applications for revision to the Voters' List.
25(3)(a)	The Clerk shall set the time and place for a hearing to decide on deletions from the Voters' List.
25(3)(b)	The Clerk shall determine the method and form of notice for a hearing to consider deletions from the Voters' List.
25(4)	The Clerk may remove a name from the Voters' List without a hearing if satisfied the person is deceased.
25(5)	The Clerk shall dismiss the appeal if applicant or representative does not appear.
25(6)	The Clerk may decide to delete a name when the person affected does not attend the hearing if satisfied that the person received notice or could not be found.
25(7)(b), (c)	The Clerk can determine how to send a copy of an approved application to delete a name from the Voters' List to the applicant and the affected person.
25(8.1)	The Clerk shall not make a determination under Section 25(7) or (8) until after the hearing.
25(9)	The Clerk decides whether a person can be found for the purpose of giving results of the hearing to delete a name from the Voters' List under Section 25(7)© or (8)©.
27(1)(a)	The Clerk can determine the form and method, and shall prepare an interim list of changes to the Voters' List.
27(1)(b)	The Clerk can determine how the interim list of revisions is shall be delivered to certified candidates.
<b>CERTIFICATION OF VOTERS' LISTS, AS REVISED</b>	
28(1)	The Clerk shall determine the method of preparing the Voters' Lists for each voting place and the form of certification.



SECTION	SHORT DESCRIPTION
<b>NOMINATIONS</b>	
32	The Clerk can determine the form and method of giving notice of the offices for which persons may be nominated and the nomination procedures.
35(1)	The Clerk shall examine nomination papers filed on or before Nomination Day (September 24 <sup>th</sup> , 2010) before 4pm on Monday (September 27 <sup>th</sup> , 2010); and if required, additional nominations filed on Wednesday October 6 <sup>th</sup> , 2010 before 4:00 p.m. on Thursday, October 7 <sup>th</sup> , 2010.
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.
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 voting places, dates and times open, and the manner in which electors may use voting proxies if applicable.
<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.	The Clerk can decide to include addresses to distinguish between candidates with similar names.
41(3)	The Clerk may 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 ALTERNATE VOTING METHOD</b>	
42(3)(a) (i), (ii)	Where there is a by-law providing for voting or vote counting equipment or an alternative voting method, the Clerk has discretion in establishing forms and procedures for carrying out the intent of the by-law.
42(3)(b)	The Clerk can determine the method for providing a copy of the procedures and forms to candidates.
<b>ADVANCE VOTE</b>	
43(3)	The Clerk shall hold an advance vote in accordance with the by-law passed by Council in Section 43(1).
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.
<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.



<b>SECTION</b>	<b>SHORT DESCRIPTION</b>
<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)	The Clerk shall have regard to the needs of electors with disabilities.
45(7)1, 2, 3	A voting place shall be located in an institution for the reception, treatment or vocational training of members or former members of the Canadian Forces; an institution 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.
45(8)	The Clerk may issue instructions to 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.
47(1)(a)	The Clerk has discretion to go to or remain in voting places during voting.
<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 declare the elected candidate(s) and the result of the vote on any 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), (2)	The Clerk shall hold a recount within 10 days if votes are tied.
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, when the Council, Board or Minister requires a recount and when the Ontario Superior Court of Justice orders a recount. Sections 56, 57, or 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.
<b>BY-ELECTIONS</b>	
62(3); 63(10)	If the recount leaves two candidates tied, the Clerk shall choose the successful candidate by lot.
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.



SECTION	SHORT DESCRIPTION
<b>FINANCIAL REPORTING</b>	
76(7)(b)	The Clerk determines the form and method of delivery of the certificate of maximum campaign expenses.
78(6)	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.
79(4)	The Clerk determines how campaign surpluses are held in trust.
80(3)	The Clerk determines the form of the notice of default.
84(5)	The Clerk determines the method of communicating the receipt of a disclaimer to the Council or the Board.
33.1	The Clerk shall determine the form and method of delivery of notice, to each person nominated for an office, of the penalties under subsections 80(2) and 92(5) related to election campaign finances.
<b>ELECTION RECORDS</b>	
88(2)(a)	The Clerk determines the method used to destroy the ballots.
88(2)(b)	The Clerk may determine what other documents or materials related to an election may be destroyed when the 90 day retention period has elapsed.
88(4)	Financial statements must be retained until the next election.



