



City of
Peterborough

To: Members of General Committee

From: John Kennedy, City Clerk

Meeting Date: April 16, 2018

Subject: Report CPCLK18-008
2018 Municipal Elections Updates

Purpose

The purpose of this report is to provide Council with an update on the 2018 Municipal Election, including changes to the **Municipal Elections Act, 1996**.

Recommendations

That Council approve the recommendations outlined in report CPCLK18-008 dated April 16, 2018 of the City Clerk, as follows:

That the update on the legislative changes to the **Municipal Elections Act, 1996** be received for information.

Background

The 2018 Municipal Election will be held Monday October 22, 2018. Planning and preparations for the 2018 election have commenced.

The **Municipal Elections Modernization Act, 2016** which received Royal Assent in June of 2016, is the culmination of a process to reform the **Municipal Elections Act, 1996 (Act)**. The Bill includes a number of significant amendments to the **Act** that will be in effect for the 2018 Municipal and School Board Elections. Many of the changes proposed take effect on April 1, 2018.

Changes to the following categories outlined in this report include: the election calendar and timelines, third party advertising, campaign finance limits and reporting, accessibility, the Clerk's independence and discretion. Other initiatives specific to the City of Peterborough are also included in this update.

Election Calendar and Timelines

A number of key dates and timelines in the election calendar have been changed affecting everything from the candidate nomination period to dates for the voters' list availability and election policies/procedures. A detailed list of date changes is provided in Appendix "A".

Nomination Period

The Nomination Period now runs from May 1 to July 27, 2018, a reduction from 37 weeks to 13 weeks. Candidates must obtain 25 endorsement signatures from eligible electors in the City of Peterborough to be filed with their Nomination form. Electors may endorse more than one candidate.

The requirement to provide signatures of endorsement applies to candidates running for Council only, not for candidates running to be school board trustees.

Election Advertising

Candidates will be required to include specific information on their election advertising in order to make it clear who is responsible for the message. This will apply to all advertising regardless of format or method. This change may result in candidates being unable to utilize their signs from previous campaigns. Candidates, or those advertising on their behalf, will need to provide broadcasters and publishers with information including name of the candidate, name of the individual or organization taking out the advertisement, as well as, address and telephone number of the individual interacting with the broadcaster or publisher on behalf of the candidate.

The broadcaster or publisher is then responsible for retaining this information along with a copy of the advertisement and invoice for a period of four years and making this information available to the public for inspection in that time period.

In previous elections, candidates have highlighted challenges associated with campaigning in apartment buildings, condominiums, housing cooperatives and gated communities as the **Act** lacked language compelling managers to permit access to these facilities. The new changes address these issues by providing candidates with the right to access residential properties for campaign purposes between 9 a.m. and 9 p.m.

Third Party Advertising

The **Act** now includes a framework for the registration and financial filing of third party advertisers. A third party advertisement is a message in any medium (billboard,

newspaper, radio, etc.) that supports or opposes a candidate or a “yes” or “no” vote on a question on the ballot.

Corporations and unions will not be permitted to make contributions to candidates. Individuals, corporations and trade unions must register as third party advertisers in the municipality where they want to advertise. If they want to advertise in more than one municipality, they have to register in each municipality. Third party advertising must be done independently of candidates. Candidates are not able to register as third party advertisers or direct any third party advertiser.

Advertising that does not cost money to post or broadcast, such as comments made on social media, is not considered third party advertising. Third party advertising does not include issues-based advertising; groups that do public outreach can continue their issued-based advocacy work throughout the municipal election period.

Third parties may register with the Clerk’s office from May 1 to October 19, 2018 and must register prior to raising or spending any money in relation to election advertising.

Campaign Spending Limits

Interim campaign expense limits for the 2018 Election have been calculated based on the List of Electors as it existed on September 12, 2014, as outlined in Table 1. The limit includes a base amount plus \$0.85 per eligible elector for each office. A campaign expenses limit will also be calculated using the number of eligible electors on the List of Electors as it exists on September 15, 2018. The final campaign expense limit for candidates for the 2018 election will be whichever calculation is higher.

Table 1: Interim Campaign Expense Limits

Mayor		
Base Amount	Eligible Electors (2014)	Interim Spending Limit
\$7,500	56,873	\$55,842.05

City Councillors			
Ward	Base Amount	Eligible Electors (2014)	Interim Spending Limit
One	\$5,000	10,410	\$13,848.50
Two	\$5,000	15,353	\$18,050.05
Three	\$5,000	8,470	\$12,199.50
Four	\$5,000	11,002	\$14,351.70
Five	\$5,000	11,638	\$14,892.30

School Board Trustees			
Board	Base Amount	Eligible Electors (2014)	Interim Spending Limit
English Public	\$5,000	46,466	\$44,496.10
English Separate	\$5,000	9,743	\$3,281.55

Third Party Spending Limits

Under the **Act**, third party advertisers will be subject to a spending limit that varies by the number of electors in the municipality in which the third party advertiser is registered. Changes proposed to O. Reg. 101/97 include the following formula for calculating third party spending limits: \$5,000 plus \$0.05 per elector, to a maximum of \$25,000.

Interim registered third party expense limits for the 2018 Election have been calculated based on the List of Electors as it existed on September 12, 2014, as per Table 2. A registered third party expense limit will also be calculated using the number of eligible electors on the List of Electors as it exists on September 15, 2018. The final spending limit for registered third parties will be the maximum of whichever calculation is higher.

Table 2: Interim Registered Third Party Expense Limits

Registered Third Parties		
Base Amount	Eligible Electors (2014)	Estimated Interim Spending Limit
\$5000	56,873	\$7,843.65

Campaign Self-Funding Limits

As part of the updates to the **Act**, candidates for an office on council and their spouses will now be limited by the amount they are eligible to self-fund their campaign. Interim self-funding limits for the 2018 Election have been calculated based on the List of Electors as it existed on September 12, 2014, as per Table 3. The limit includes a base amount plus \$0.20 per eligible elector for each office. Self-funding limits will also be calculated using the number of eligible electors on the List of Electors as it exists on September 15, 2018. Candidates and their spouses may contribute to a maximum of whichever calculation is higher.

Table 3: Interim Campaign Self-Funding Limits

Mayor			
Base Amount	Eligible Electors (2014)	Interim Self-Contribution Limit Per Elector	Interim Self-Contribution Limit
\$7,500	56,873	\$11,374.60	\$18,847.60

City Councillors				
Ward	Base Amount	Eligible Electors (2014)	Interim Self-Contribution Limit Per Elector	Interim Self-Contribution Limit
One	\$5,000	10,410	\$2,082.00	\$7,082.00
Two	\$5,000	15,353	\$3,070.60	\$8,070.60
Three	\$5,000	8,470	\$1,694.00	\$6,694.00
Four	\$5,000	11,002	\$2,200.40	\$7,200.40
Five	\$5,000	11,638	\$2,327.60	\$7,327.60

Campaign Appreciation Events

Under the legislative changes, all candidates now have limits on the amount they may spend towards the cost of holding parties and making other expressions of appreciation after Election Day. Interim campaign appreciation limits for the 2018 Election, as outlined in Table 4, have been calculated as 10 per cent of the amount calculated for the interim campaign expense limits. The final campaign appreciation limits will be calculated as 10 per cent of the amount calculated for the final campaign expense limits. Candidates may spend to a maximum of whichever calculation is higher.

Under proposed changes to O. Reg. 101/97, third party advertisers will also have a spending limit for parties and other expressions of appreciation after Election Day. This limit will be set at 10 per cent of the third party spending limit. This would be consistent with the spending limit already in place for candidates.

Table 4: Interim Campaign Appreciation Limits

Mayor	
Interim Spending Limit	Interim Campaign Appreciation Event Limit
\$55,842.05	\$5,584.21

City Councillors		
Ward	Interim Spending Limit	Interim Campaign Appreciation Event Limit
One	\$13,848.50	\$1,384.85
Two	\$18,050.05	\$1,805.00
Three	\$12,199.50	\$1,219.95
Four	\$14,351.70	\$1,435.17
Five	\$14,892.30	\$1,489.23

School Board Trustees		
Board	Interim Spending Limit	Interim Campaign Appreciation Event Limit
English Public	\$44,496.10	\$4,449.61
English Separate	\$3,281.55	\$328.15

Registered Third Parties	
Estimated Interim Spending Limit	Estimated Interim Campaign Appreciation Event Limit
\$7,843.65	\$784.37

Campaign Contributors

- An individual's maximum contribution (money, goods, and services) to any one candidate or registered third party is \$1,200. An individual may contribute a maximum of \$5,000 for all candidates on the same Council or a maximum of \$5,000 for all registered third parties within the municipality.
- Other than contributions made by candidates and their spouses, contributions to candidates can be made only by individuals residing in Ontario. Corporations or trade unions must register as third party advertisers.
- If a candidate sells items for \$25 or less in order to raise campaign funds, the money is considered campaign income rather than a contribution. In this case, the candidate does not have to issue a receipt, or make sure that the person buying the item is eligible to make a campaign contribution.
- Contributions in excess of \$25 must be made in a manner that connects the contributor to the payment. Anonymous contributions are paid to the Clerk and become the property of the municipality.

Financial Statement Filing and Reporting

In order to increase accountability around campaign financing, changes to the **Act** establish a new requirement for the Clerk to review and report on campaign contributions made to candidates running for a position on City Council. The report would identify any candidates who appeared to exceed the campaign contribution limits. The same type of report would also be created for registered third party contributors. The Secretary of a school board would be responsible for compiling this report for candidates running for School Board Trustee. These reports would be referred to the Compliance Audit Committee to determine if any further action will be taken. The Clerk must now also publicly identify in a report the candidates and third parties who have failed to comply with the financial requirements of the **Act**.

Every candidate will be entitled to a refund of the nomination fee if they file their campaign financial statement and auditor's report (if required) by the deadline. The refund of the nomination fee is no longer related to the number of votes received.

The deadline to file a financial statement and auditor's report is Friday March 29, 2019 at 2:00 p.m. There is now a 30-day grace period for candidates and third party advertisers who miss the deadline to file a financial statement and auditor's report, provided that the candidate or third party advertiser pay a \$500 late filing fee to the municipality. If a candidate or third party advertiser has filed their financial statement prior to the deadline and then discovers an error, they can file a corrected financial statement and auditor's report up until the filing deadline.

If an eligible elector believes that a candidate or third party advertiser has contravened an election campaign finance rule, the elector may apply for a compliance audit.

Compliance audit committees will be required to provide brief written reasons for their decisions. Meetings of the compliance audit committees shall be open to the public, but the committee is permitted to deliberate in private.

Elections Accessibility

Changes to the **Act** provide that the Clerk prepare an Elections Accessibility Plan and make it available to the public before Election Day. The Clerk must also prepare a report within 90 days following the election on the identification, removal and prevention of barriers that affect electors and candidates with disabilities. The post election report must now be made available to the public, rather than being submitted to Council.

Recount Policies

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

1. Where the counting of ballots resulted in a tie vote;
2. Where a municipality, local board or Minister of Municipal Affairs has passed a resolution to order a recount; or
3. Where an electors' request for a recount has been granted by the Superior Court of Justice.

While a recount is still mandatory under those circumstances, the **Act** now provides the municipality with the authority to adopt a policy by May 1, 2018 to define other circumstances under which a recount may be conducted.

Staff are not recommending the implementation of a recount policy.

Administrative Independence and Discretion

Changes to the **Act** provide greater administrative discretion and independence for municipal Clerks directing election activities. The following matters, some of which previously required Council approval, will now be entirely under the guidance of the municipal Clerk:

1. The establishment of advance voting dates, locations and hours;
2. The establishment of reduced voting hours for voting places and long-term care facilities;
3. The management of the voters' list, including the removal of deceased persons, additions of new electors and amendments to existing electors, as well as, the method by which additions, amendments and deletions are completed.

2018 Election Technology

Council at its meeting of December 12, 2016 adopted By-Law Number 16-127 and the recommendations of Report CPCLK16-019 to permit alternate voting technology and online voting to be used in the 2018 Municipal Election.

Technology has been used successfully in the City of Peterborough since 2006 to enable electors to vote at any walk-in voting location in the City, to help facilitate results reporting through the use of vote tabulators, and for electors to cast a ballot online.

Voting Locations

Staff are in the process of reviewing sites to be used as voting locations. These sites are being evaluated based on accessibility criteria, technology requirements, capacity, and location in the City. Potential voting locations will be posted to the city website in May. Electors will have the opportunity to review and comment. Other jurisdictions, such as Elections Ontario, have used this successfully in the past to ensure locations meet the expectations of electors. Final locations will be posted during the summer of 2018.

Advance and Online Voting

Staff anticipate advance voting opportunities and on-line voting will commence during the week of October 8th. In the previous election, on the same day, advanced voting was available at a walk-in poll in each ward and online voting started approximately two weeks prior to Election Day. Similar advanced voting opportunities will be available for the 2018 election.

Accessible Advance Voting

City Hall Accessible Advance voting is a small, single poll intended to provide an advance voting option to electors on a low volume scale. For example, members of the public who may be at City Hall conducting other business or are there to determine if they are on the List of Electors, could, if they wish, vote during this advance period. The intent is to offer an all-inclusive voting solution for electors.

In 2014, the City Hall Accessible Advance voting opportunity served 520 electors. Staff plan to continue this opportunity for 2018 by offering an accessible voting poll at City Hall the week prior to Election Day.

Serving Electors Better

Staff are working to serve vulnerable populations more effectively to ensure all electors are provided equal opportunities to cast a ballot. Staff intend to work with community partners to communicate information more effectively with the populations they serve.

While the **Act** requires a voting place to be provided in institutions and retirement homes, staff recognize that there are high senior populations in residences that do not

necessarily reflect the legislative requirement. Staff are looking for opportunities to serve these electors more effectively.

Staff also intend to serve student electors more effectively by offering registration and advance voting opportunities on campuses prior to Election Day.

Restricted Acts after Nomination Day

If the new council may not be composed of 75 per cent or more of the members of the current council, then the current council would be restricted from any of the following actions outlined in subsection 275(3) of the **Municipal Act, 2001**:

- (a) The appointment or removal from office of any officer of the municipality,
- (b) The hiring or dismissal of any employee of the municipality,
- (c) The disposition of any real or personal property of the municipality, which has a value exceeding \$50,000 at the time of the disposal; and
- (d) Making any expenditures or incurring any other liability which exceeds \$50,000.

A council may become restricted in some of its actions between any one of two periods. First, the period from nomination day (July 27, 2018) to Election Day (October 22, 2018). In this instance, 75 per cent of the members of the current council would not be running again. The second period runs from Election Day (October 22, 2018) to the end of the current term of council (November 30, 2018). In this example, 75 per cent of the members of the current council would not have been re-elected.

Despite the restrictions, where the next term of council would be less than 75 per cent of the current council, the City's By-Law Governing Purchasing Policies, By-Law Number 14-127, delegates certain authority to staff. Under these circumstances, the Chief Administrative Officer, in consultation with the Director of Corporate Services, would be authorized to transfer approved budgets, including any uncommitted General Contingency, or the Capital Levy Reserve, and to pre-commit future year(s)' budget(s). The Chief Administrative Officer would also be authorized to dispose of real property.

Information Sessions

Staff intends to host two information sessions, one in the spring and one in the fall for candidates and third party advertisers.

Information packages for candidates and third party advertisers will be available in the Clerks Office during the nomination period. These packages will include information on campaign finances, third party advertisers, signage and all the necessary forms. Information will also be available on the city's website: www.peterborough.ca/vote.

The Association of Municipalities Ontario is also offering an updated version of their online training course “So You Want to be a Councillor” available through their website: <https://www.amo.on.ca/Training>. Members of the public who may be interested in running for a position on council can access this training online.

Summary

The **Municipal Elections Modernization Act, 2016** constituted the most significant update to the **Act** in 20 years. Staff continue to review and prepare for the comprehensive changes to the **Act** as Election Day approaches.

Submitted by

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Attachments:
Appendix A – Date Changes

Appendix A

Changes to the Election Calendar		
Item	Old Date	New Date
Establishment - forms, policies, procedures for voting, vote counting equipment and alternative voting methods	June 1, 2018	December 31, 2017
Authorization of a ballot question	June 1, 2018	March 1, 2018
Opening of nomination period	January 1, 2018	May 1, 2018
Close of nomination period	Second Friday in September	Fourth Friday in July
Establishment of voting subdivisions	Ministers' letter	March 31, 2018
Authorization of alternative voting methods	June 1, 2018	May 1, 2017
Availability of the voters' list	First Tuesday in September	September 1, 2018
Compilation of interim list of changes to the voters' list	10 days following nomination day	Starts September 15, ends September 25, 2018
Authorization of a recount policy	New Requirement	May 1, 2018
Authorization of a use of corporate resource policy	New Requirement	May 1, 2018
Report of candidates in default	New Requirement	May 1, 2019
Third Party Advertiser Registration	New Requirement	Open May 1, 2018 Close October 19, 2018