

Guide for Election Officials

Municipal Election Procedures

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Foreword

This guide for election officials has been prepared to provide election officials with an overview of the more important aspects of the municipal election process. While this guide encompasses many of the legislative requirements for the conducting of municipal elections, it should not be considered as a substitute for the *Municipal Elections Act, Chapter M-20.2*.

Election officials generally, and Returning Officers specifically, should thoroughly familiarize themselves with this Act to ensure that municipal elections are conducted in accordance with its provisions.

This manual, therefore, has been prepared to compliment the requirements of the legislation and it is trusted that election officials will find it helpful.

If you have any questions or comments concerning this guide or Municipal Elections in general, please contact your Municipal Affairs Regional Office.

Eastern Region - 729-0259

Central Region - 256-1050

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Labrador Region - 896-2941

Municipal Election Procedures

Municipal Election Officials

Well trained and knowledgeable election officials are essential to the successful and trouble free running of a Municipal Election. The following officials are needed:

- Returning Officer,
- Alternate Returning Officer - if deemed necessary by council,
- Deputy Returning Officers - if two or more polling divisions are used,
- Poll Clerks, and
- Other officials as deemed necessary by the Returning Officer.

Appointments

Returning Officer (Subsection 13.1)

The Clerk is the Returning Officer for all municipal elections held under the *Municipal Elections Act* and where there is no clerk or the clerk is unable to act, the Council shall appoint a Returning Officer.

Alternate Returning Officer (Subsection 13.2)

The Council shall appoint an Alternate Returning Officer to perform the duties of the Returning Officer in the event that the Returning Officer is unable to carry out any of these duties.

Deputy Returning Officer (Subsections 13.4 and 13.5)

Where a municipality or ward is divided into two or more polling divisions, the Returning Officer must appoint a Deputy Returning Officer for each polling division.

Poll Clerk (Subsections 13.4 and 13.5)

The Returning Officer must appoint a poll clerk for each polling division in a municipality or ward. Note: The Returning Officer appoints all the required election officials with the exception of the Alternate Returning Officer referred to in subsection 13.2.

Responsibilities

Returning Officer

The Returning Officer is responsible for the overall conducting of the election and must, therefore, be fully aware of the legislative requirements of this position. The specific responsibilities of the Returning Officer include, but are not limited to:

- the preparation and revision of the voters list,
- the conducting of nominations,
- the training of other election officials,
- the acquisition and distribution of all necessary election materials, including ballots,
- the deciding of tie votes in circumstances where two or more candidates have the same number of votes where both or all of these candidates cannot be elected, and
- the conducting of recounts.

Additionally, in circumstances where the election in a municipality is conducted from one polling division, the Returning Officer also performs the responsibilities of the Deputy Returning Officer and therefore administers that particular polling division with the assistance of a Poll Clerk.

Deputy Returning Officer

The Deputy Returning Officer is responsible for the administration of the polling division to which he/she has been assigned. The specific responsibilities of the Deputy Returning Officer include, but are not limited to:

- the opening and closing of the poll,
- the taking and counting of votes at the particular polling division, and
- the delivering of the sealed ballot box(es) and the statement of the polling division to the Returning Officer subsequent to the counting of the votes.

Poll Clerk

A Poll Clerk, while generally being responsible to assist the Returning Officer or Deputy Returning Officer in the administration of the polling division, is primarily responsible for the proper maintenance of the poll book

Eligibility

All persons are eligible to act as election officials EXCEPT:

- a sitting Councillor for the municipality in which the election is taking place,
- a person who has been found guilty of an offence related to an election under the *Municipal Elections Act* or former Act,
- a person who intends to be nominated, or is nominated, to be a candidate in the municipality in which the election is taking place, or
- a person who is, voluntarily or for pay, working or intending to work on the campaign of a candidate in the election.

Voters List

Preparation (Section 31)

The Returning Officer is required to prepare a voters list for a general municipal election. The preparation of this list must be commenced at least two months before the election date and must be completed at least one month before that date. The Returning Officer shall compile the voters list in one of two ways:

- if the municipality is not divided into wards or polling divisions and consequently the election is being conducted from one polling division, the Returning Officer shall prepare a list of voters, or
- if the municipality is divided into wards or polling divisions, the list must be prepared for each ward or polling division where an election is to be held.

To assist with the preparation of the voter's list, the Returning Officer may access and use the lists of electors established and maintained for federal and provincial elections.

Revision and Use (Sections 31 and 32)

In circumstances where the name of a qualified voter is omitted from the voters list or where the name of a person who is not a qualified voter is included, the Returning Officer is required, subsequent to receiving proof satisfactory to him/her to this effect, to correct any such error or omission by including or deleting the name.

A voters list, once prepared and revised for a general election, is to be used for a deferred election should the election for which it was prepared be deferred. Additionally, this voters list is to be used for any by-elections that might occur before the next general municipal

election and for any elections or by-elections that might be ordered by the Minister of Municipal Affairs before the next general municipal election.

The Returning Officer shall, upon providing a candidate with a copy of the voter's list, require the candidate to swear or affirm that the information contained in the list will be used for election purposes only.

The Returning Officer must, if requested, provide the information contained in the voter's list to the Sheriff of the province, the Chief Electoral Officer of the province or Elections Canada.

Nomination of Candidates

Time and Place (Section 14)

- Each council must decide whether nominations will be held on one day or on more than one but not exceeding six days. The nominations must be held on one or more of the six working days between the twenty-eighth and twenty-first day prior to the election.
- If it is decided to hold nominations on only one day, the hours for nominations would be from 8:00 a.m. and 8:00 p.m.
- If it is decided to hold nominations on more than one day, the hours for nomination would be from 9am to 4pm each day.
- If the council decides to hold its election under Part V of the *Municipal Elections Act* "Vote by Mail" the nomination period would be from 9am to 4pm on each of the six working days between the thirty-fifth and twenty-eight day prior to the election.
- The Returning Officer is responsible for designating the place for receiving nominations.
- The Returning Officer must publish a notice of the time and place for the receiving of nominations. This notice is to be posted in at least two places in the municipality and published in a newspaper having general circulation in the municipality provided that there is such a newspaper at least ten (10) days before the commencement of the nomination period.
 - ***MEF-01 - Public Notice - Nomination of Candidates*** is used.

Qualification of Candidates (Section 15)

A person is qualified to be nominated as a Councillor for a municipal election who:

- is a qualified voter in the municipality in which he/she is seeking nomination,
- is not in arrears of taxes or other charges payable to the municipality
- is ordinarily resident in the municipality, or in an area that on election day is part of the municipality, for at least 30 days before the commencement of the nomination period

A person is not qualified to be nominated for election to a municipal council if:

- he/she is the Clerk, Manager or a Paid Department Head of that council.
- he/she is the Chief Administrative Officer of an agency or body established by the council to which he/she is seeking nomination, if that agency or body is required to have its annual operating budget approved by that council.
- he/she is a member of the House of Commons, the Senate of Canada, the House of Assembly, or a judge of the Supreme or Provincial Court.
- he/she was a member of a council that was dismissed by the Minister, in accordance with paragraph 206(1)(b) of the *Municipalities Act, 1999*.

“206. (1) The office of a councillor becomes vacant where ...

(b) he or she is a member of a council of a municipality that is dismissed under the *Municipal Affairs Act*, or where under that Act, he or she is dismissed as a member of a council; ... “

- he/she was individually dismissed as a member of a Council by the Minister, in accordance with paragraph 206(1)(b) of the *Municipalities Act, 1999*. (See above)
- his/her seat has been vacated under paragraph 206(1)(e) or subparagraph 206(1)(f)(ii) of the *Municipalities Act, 1999* or his/her seat has been declared vacant, by the Council to which he/she was elected.

“206. (1) The office of a councillor becomes vacant where ...

- (e) he or she remains indebted to the council for outstanding taxes 31 days after the end of the previous taxation year of the council;”

and

“(f) without leave of the council, he or she ...

- (ii) does not attend regular public meetings of the council for 3 successive months; ... “

Former councillors who were dismissed from office by the Minister, whose seats were vacated under the provisions of the *Municipalities Act, 1999*, outlined above or who had their seats declared vacant by the councils to which they were elected, cannot seek re-election to any municipal council for a period of two years from the date of their removal from office.

Note: *Municipal employees, other than the Clerk, Manager and paid Department Heads but including volunteer Fire Chiefs and any other volunteer Department Heads that a council might have, may request a leave of absence from their position in order to be nominated for election.*

If so requested, council MUST grant the leave. If that employee is subsequently elected, he or she must resign his or her position with the council PRIOR to taking the Oath of Office.

Nomination Procedures (Section 16)

- A candidate must be nominated by two persons eligible to vote in the municipality or, in the case of a candidate for a ward election, by persons eligible to vote in the ward.
- The nomination must be in writing, stating the name and civic address of the candidate and must be signed by the proposer and seconder, both of whom must be present with the candidate and must also sign signifying his/her acceptance of the nomination.

MEF-02 - Nomination Form and Declaration of Qualification by Candidate is to be used for this purpose.

- In circumstances where a candidate is unable to be present for his/her nomination, the Returning Officer may accept a declaration to this effect from one of the candidate's nominators, together with a declaration that the candidate is qualified to be nominated and accepts the nomination.

MEF-03 - Nomination Form for Candidates Unable to Be Present on Nomination Day is to be used for this purpose.

Nomination Fee Deposit (Section 18)

The Returning Officer must collect from each candidate at the time of his/her nomination, a non-refundable nomination fee in the amount of \$10 for towns or regions and \$50 for cities.

Nomination Report for Municipal Affairs

It is a requirement to complete form *MEF-04 - Nomination Report for Municipal Affairs*. This report should be faxed to your regional office of MA immediately following the final close of nominations.

Since some towns still do not have faxing capabilities, it is acceptable, in these cases, to call the regional office the day after nominations close and report the required information in this manner. The original should be mailed to the regional office as soon as possible.

Notice of Candidates (Section 19)

Within the seven days immediately following the nomination period, the Returning Officer must publish in a newspaper in general circulation in the municipality, provided there is such a newspaper, and in at least two public places in the

municipality, a notice of the names of the candidates who have been nominated and where polling divisions are to be located. The identifying of the location of polling divisions is only necessary if a sufficient number of candidates have been nominated to necessitate an election.

MEF-05 - Notice of Candidates is used for this purpose. This form may be used to announce an advanced poll or polls. (See “Advanced Poll” section on page 11).

Acclamation or Election (Section 20)

The holding of an election is only required where the number of candidates nominated exceeds the number of councillors required for the council. In circumstances where only as many candidates are nominated as there are councillors required, or fewer candidates than the number of councillors required are nominated, the Returning Officer declares those candidates elected by acclamation at the close of nominations.

Voters

Qualifications (Section 22)

In order to vote in a municipal election:

- a person must be a Canadian citizen;
- at least 18 years of age on or before election day; and
- must have been ordinarily resident for the 30 days immediately preceding election day either in the municipality or in an area that on election day is part of the municipality.

Rules of Residency (Section 24)

In order to vote or to be a candidate in a municipal election a person must be ordinarily resident of the municipality. In the case of a voter, he/she must be ordinarily resident for a period of 30 days immediately prior to the beginning of the nomination period. While a person can live in more than one municipality in the province, he/she can only be ordinarily resident of one municipality at any given time. Section 24 of the *Municipal Elections Act* outlines the rules of residency. (See below) Returning Officers should familiarize themselves with these rules so they can determine the residency status of voters and potential candidates whose status may otherwise be questionable.

The *Municipal Elections Act* states:

“24. (1) The following rules shall determine the residency of a person for the purpose of this Act:

- (a) a person shall be a resident of the place where he or she lives and sleeps and to which, when absent, he or she intends to return,
- (b) residency is not lost by a person who leaves that residence for temporary purposes only, and

- (c) the place where a person's family resides shall be his or her residence unless that person commences and continues to live at some other place with the intention of remaining there, in which case, the person shall be considered to be resident in the place in which he or she intends to reside.
- (2) A person shall, for the purpose of this Act, have only one place of residency."

Voters Oath (Section 25)

In order to vote in a municipal election, a voter's name must appear on the voters list prepared and revised for that election. If, however, the name of a qualified voter has been omitted from the voters list, that person is still entitled to vote provided that he/she takes an oath or affirmation to the effect that he/she is, in fact, a qualified voter.

MEF-014 - Oath or Affirmation of Voter is the required form. This form also includes a second part : **Voluntary Authorization to Release Information to Update the Provincial and Federal Voters Lists - P.6-A** For more information about this form, see "Voting Procedures" on Page 14.

Additionally, even though a voter's name may appear on the voter's list, before voting he/she may be required by a candidate or a candidate's agent to take an oath or affirmation respecting his/her qualifications as a voter. Form *MEF-014 - Oath or Affirmation of Voter* is to be used for this purpose, as well. Any voter refusing to take such an oath or affirmation is not entitled to vote.

Voting by Election Officials (Section 23)

Election officials are entitled to vote at an advance poll, to vote by proxy or to vote in the polling division to which they have been assigned on election day regardless of whether or not they are ordinarily resident in that particular polling division. This latter provision cannot be used, however, by election officials who are assigned to polling divisions within a ward other than the ward in which they are ordinarily resident. In such cases, these election officials would be restricted to voting in an advance poll or by proxy.

Voting By Incapacitated Persons (Section 48)

Where a qualified voter requests assistance to mark his/her ballot, an election official shall accompany the incapacitated person into the polling booth and assist the voter to mark the ballot in a manner directed by the voter.

The incapacitated voter is also entitled to be accompanied into the polling booth by a friend, as opposed to an election official, who is then entitled to mark the ballot as directed by the incapacitated voter.

Note: *While there is no legal requirement that a person acting as a friend of the incapacitated voter be a qualified voter, it must be remembered that such a person can only act as a friend for one (1) incapacitated voter in an election.*

Where an incapacitated voter has been provided with assistance in the marking of his/her ballot, an entry to this effect must be made in the poll book by the Poll Clerk.

In circumstances where a polling booth or polling station is not accessible to an incapacitated voter, the Returning Officer or Deputy Returning Officer in charge of that particular polling division is required to temporarily suspend voting in that polling division and to carry the ballot box, poll book, ballots and all other applicable election materials to a place which is accessible to the incapacitated voter and is in close proximity to the entrance of the polling station in order to allow the incapacitated voter to vote.

Note 1: *While this provision is intended to assist incapacitated voters in casting their votes, it must be remembered that the responsibility to get to the place of voting rests with the incapacitated voter.*

Note 2: *Returning Officers should make every effort to ensure that polling divisions are located in such a manner as to ensure accessibility to incapacitated voters.*

Voting By Proxy (Section 27)

To vote by proxy simply means that another qualified voter in the same municipality votes on behalf of an "impeditive voter" as defined by Section 2 of the *Municipal Elections Act*.

An impeditive voter can request a proxy application from the Returning Officer. **The Returning Officer can only provide a proxy application directly to the impeditive voter or to his or her designated proxy.**

In order to vote by proxy an impeditive voter or his or her proxy must return the proxy application to the Returning Officer outlining who is being designated as the proxy voter not later than 4:00 p.m. on the day before election day.

Upon receiving such an application, and being satisfied that the requirements for proxy have been complied with the Returning Officer shall issue a Proxy Certificate. This Proxy Certificate must be provided to the Returning Officer or Deputy Returning Officer at the polling division by the designated proxy voter before he/she can vote on behalf of the impeditive voter.

It should be noted that no more than one Proxy Certificate can be issued for any one impeditive voter for an election unless the designated proxy dies or is unable to cast a vote because of illness or mental incapacity. As well, no person can act as a proxy voter for more than one impeditive voter in any one election.

Forms *MEF-012 - Proxy Application* and *MEF-013 - Proxy Certificate* are to be used for these purposes.

Advance Poll

An **advance poll** is a voting forum which may be provided to primarily accommodate impeditive voters as defined in Section 2 of the *Municipal Elections Act*. The decision as to whether or not an advance poll is to be held rests with the council and where council considers it appropriate, a second advance poll may be held.

Time of Advance Poll (Section 26)

A single advance poll may be held at any time within the 14 days immediately preceding election day. If it is proposed to have two advance polls, one must be held on the Saturday immediately preceding election day.

Place of Advance Poll (Section 26)

In deciding where to conduct an advance poll, the Returning Officer should make every effort to ensure that the location selected is as convenient as possible for all voters and if possible accessible to incapacitated voters.

If an advance poll is to be held, the Returning Officer is required to publish a notice outlining the location, date and hours of voting of the poll. This notice must be published

in a newspaper in general circulation in the municipality or ward, provided there is such a newspaper, and be posted in at least two places in the municipality or ward at least once in the seven (7) day period before the date of the advance poll.

Note: Form *MEF-05 - Notice of Candidates* includes a section for announcing an advance poll or polls.

Procedure for an Advance Poll (Section 26)

An advance poll is conducted in the same manner as a polling division on election day. The ballot box used for the advance poll cannot be used on election day because it is to be sealed at the conclusion of the advance poll and cannot be unsealed until the counting of the ballots on election day.

A record of all voters who voted in an advance poll, together with the polling division in which their names appear on the voter's list must be provided to the respective polling divisions on election day.

Election Materials

There are many materials which are necessary for the proper conduct of a municipal election. In addition to the most obvious, ballots, voters lists and ballot boxes, there must be an adequate supply of prescribed forms, pencils, voting screens, poll books, envelopes, sealing tape and Bibles.

Ballot Box

There must be at least one ballot box for each polling division and, as previously mentioned, a separate ballot box for an advance poll. These boxes can be constructed of any material which can be sealed, is of a non-see through design and is sizeable enough to receive the maximum number of ballots for the polling division.

Ballots (Sections 28)

The ballots must contain the names and civic addresses of the candidates arranged alphabetically by surname and by their other names if two or more candidates have the same surname.

The ballots shall be in the prescribed form:

- MEF-06 - Councillor Ballot
- MEF-07 - Mayor Ballot
- MEF-08 - Ward Councillor Ballot

The returning officer shall arrange for the printing of sequentially numbered ballots, not less than the number of voters in the municipality.

If you have a ward system, the ballots for each ward should be a different colour. Similarly, if a separate election is held for the Mayor, the ballots for this purpose should be a different colour from all other ballots.

Each ballot paper is to have a counterfoil which is a detachable numbered tab at the top of the ballot. This will serve as a record of the number of ballots issued and will ensure that there is no duplication of voting. It is important to note that it is only the counterfoil which is numbered not the voting portion of the ballot.

Note: *It is recommended that a minimum of 50 or a maximum of 100 ballots over and above the number required to facilitate a 100% voter turnout be acquired for an election.*

Prescribed Forms for Voting

The following forms MUST be on hand at each polling division:

- MEF-06 - Councillor Ballot and in addition, MEF-07 - Mayor Ballot and MEF-08 - Ward Councillor Ballot, if required
- MEF-09A, 09B and 09C - Poll Book
- MEF-014 - Oath or Affirmation of Voter
- MEF-015 - Directions for the Guidance of Voters

Bibles

One Bible will be needed for each polling division for use in conjunction with the administration of oaths as outlined in the various prescribed forms.

Pencils

Regular pencils may be used for the marking ballots, however, the leads are subject to frequent breakage resulting in voting delays or other potential problems. It is therefore suggested that a sturdier "carpenter" type pencil be provided in each polling booth. These

should be available through stationery or building supply outlets.

Voting Screens

If a polling station does not have an enclosed polling booth, a screened area must be provided to allow privacy for the voter when marking a ballot.

Envelopes

Required at each polling division to secure the ballots after they are counted. Please see Page 17 for more information about the envelopes required

Sealing Tape

There should tape available of sufficient size and strength to adequately seal ballot boxes after the voting has ended and the ballots have been counted.

Election Day

Adjournment of Election (Section 8)

The Returning Officer has the authority to postpone an election or by-election in circumstances where he or she believes that by proceeding, the health and safety of the public and/or the integrity of the election process would be at risk. Such a postponement could be to another time, or place on the same day, or to another day. If it is postponed to another day, it must be held within 7 days of the original election date. If postponed to another time on the same day, the polls must remain open for the required twelve hour period.

Opening of the Polls (Section 33)

The polls are required to be open at 8:00 a.m. and they remain open continuously until 8:00 p.m. If the opening of a polling division is delayed, the closing of that polling division is to be extended to provide the required 12 hours of voting.

A Certificate of the Opening of the Polling Division (MEF-09B) which is contained in the Poll Book shall be completed for each of the polling divisions before the polls open. At the time of opening of the poll, the empty ballot box is displayed to those present in the polling division and it is then sealed and placed in full view for the receipt of ballots.

Voting Procedure (Sections 36 & 46)

- Voters presenting themselves at the polling division must have their names checked against the voter's list.
- If the name doesn't appear on the list, the voter must be sworn or affirmed through the completion of statutory *MEF-014 - Oath or Affirmation of Voter* which is in two parts:
 1. The “Oath and Affirmation of Voter”
 2. The “Voluntary Authorization to Release Information to Update the Provincial and Federal Voters Lists - P.6-A”

Procedure for dealing with MEF-014:

1. Voter is asked if he/she wants to complete the “Voluntary Authorization ...” form
2. If “yes” - voter completes the form and returns it to the DRO who separates the two forms
3. Top of Form MEF-014 goes in ballot box at the closing of the polls
4. The authorization form goes in an envelope for the RO who will send the forms to Elections Newfoundland and Labrador following the election.
5. If “no” - voter proceeds to next stage
6. Election officials will then record the name of the voter in the poll book.
 - Once it is established that the voter is entitled to vote, a ballot with the counterfoil removed is folded in a concealing manner and provided to the voter.
 - The voter will then proceed to the screened area to mark the ballot following which it is refolded in the same manner as presented and placed in the ballot box by the voter in full view of the election officials or by the election officials in full view of the voter.
 - The voter must then leave the polling station.

Note 1: Only election officials and the candidates and/or their agent authorized in writing (one agent for each candidate per polling station) are permitted to remain in the polling station during the conducting of the election and during the counting of the votes.

Note 2: On election day, a candidate or his or her agents shall not campaign or distribute campaign materials inside the polling station or within 30 metres of the entrance to a

Time Off (Section 34)

The *Municipal Elections Act* provides for four (4) consecutive hours off from employment to vote.

Close of Poll (Section 33)

When at the time set for the close of voting those voters who are inside, or in line outside the polling station waiting to vote will be permitted to do so. It is the decision of the Returning Officer or Deputy Returning Officer in charge of the polling division as to who is entitled to vote in this circumstance.

Counting of Ballots (Section 51)

- When all voting is completed, all persons except the candidates and their agents and the election officials will be required to leave the polling station.
- The Returning Officer or Deputy Returning Officer first places all cancelled, declined and unused ballots in a single envelope and seals it.
- The Returning Officer or Deputy Returning Officer then counts the names in the Poll Book and signs the following certificate which shall be written in the Poll Book on the line immediately below the name of the last person to vote:

"I certify that the number of voters who voted at the election in this polling booth is (STATING THE NUMBER IN WORDS) and that (INSERT NAME OF THE LAST VOTER) was the last person who voted at this polling booth."

- With the assistance of the Poll Clerk, the Returning Officer or Deputy Returning Officer will unseal the ballot box and commence the counting of the number of ballots cast and the number of votes given for each candidate. Form **MEF-016 - Tally Sheet** is provided to facilitate the counting of votes. Returning Officers can design their own tally sheets, if they so desire.

Note: Each person present during the counting of the votes is entitled to examine each ballot.

Rejected Ballots (Section 52)

In counting the votes, the Returning Officer or Deputy Returning Officer must reject

all ballots:

- on which more candidates than the number to be elected have received votes; and
- on which there is writing or a mark by which the voter can be identified or the ballot has been torn or defaced in such a manner so as to identify the voter.

Note: *A ballot paper is not to be rejected in its entirety only because one or more of the votes on the ballot is rejected and in such cases the votes not rejected must be counted.*

After Counting the Votes

After the counting of the votes:

- The Returning Officer or Deputy Returning Officer must complete, in duplicate, form **MEF-017 - Statement of Polling Division**, one copy of which is attached to the poll book and the other copy, in the case of a Returning Officer, retained by him/her, or in the case of a Deputy Returning Officer, delivered to the place designated by the Returning Officer.
- The ballots are put into their respective envelopes and sealed.
- Following the completion of the statement of the polling division, the poll book, the voters list, all ballots and all other election documents related to the election conducted at that polling division, must be placed in the ballot box which must then be sealed.
- The sealed ballot box, together with the statement of the polling division is then, in the case of a Deputy Returning Officer, delivered by him/her to the Returning Officer.

Account of Ballots (Section 55)

Each Ballot used or not used in the election falls into one of three categories and must be accounted for after the counting of the ballots. Three envelopes, one clearly labelled for each category, should be available and of sufficient size to handle the ballots. The categories are:

- Ballots not objected to and counted,
- Ballots objected to in whole or in part and counted in whole or in part, all rejected ballots and used but unmarked ballots, and

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- Cancelled, declined and unused ballots.

Tie Vote Procedure (Section 60)

If, there is a tie between two or more candidates, where both or all of those candidates cannot be elected, the Returning Officer is required to break this tie in the following manner:

- write the names of those candidates on separate identical sheets of paper,
- fold the sheets of paper in an identical manner so that the names are concealed,
- deposit them in a receptacle and withdraw the number of sheets necessary to elect the candidates required to be elected, and
- declare the candidate whose name appears on the sheet to be elected.

Declaration of Results (Section 58)

The results of the election must be declared publicly by the Returning Officer not later than 12:00 noon of the following day, giving the names of the elected candidates in descending order from the largest number of votes received. Additionally this public notification must also indicate the number of votes received by all candidates in the election.

Retention of Election Documents (Section 59)

A ballot box, once sealed by the Returning Officer or Deputy Returning Officer is to remain sealed for a period of thirty (30) days after the election and until the termination of any legal proceedings that might be instituted to test the validity of the election unless:

- it is otherwise ordered by the Supreme Court or a Judge, or
- a recount is requested.

When this thirty (30) day period has elapsed, or any legal proceedings that might have been instituted have been finalized, and unless ordered by the Supreme Court or a Judge to do otherwise, the ballot boxes must be unsealed and the ballots and other associated material destroyed as d by the Returning Officer. *Excluding the voter's list used in the polling division.*

Important Note:

It is at this time that the Returning Officer should update the Voters List using the MEF-014 - Oath or Affirmation of Voter forms or the Poll Book. Once the list is updated, the form can be destroyed.

Post-Election

The Returning Officer must be prepared to deal with certain post election eventualities such as **recount requests** and **election petitions**.

Election Report (Section 61)

Within seven (7) days after the election, the Returning Officer is required to submit a report on the election to the Minister of Municipal Affairs. *MEF-018 - Municipal Election Report* is to be used for this purpose.

Returning Officer Recount (Sections 62 & 66)

Where a candidate in an election or a component of an election (separate election for mayor, ward election) is defeated by 10 votes or less, or a higher number of votes determined by council, the Returning Officer must upon the request of any candidate in the election conduct a recount of the ballots cast.

The cost of this recount would be borne by the municipality.

A request for such a recount must be made by a candidate to the Returning Officer within three days after the date of the election and be commenced by the Returning Officer within three days of the receipt of the request.

Judicial Recount (Section 64)

Any candidate in an election can request a Provincial Court Judge to conduct a recount of the ballots cast in an election or particular component of an election (separate election for mayor, ward election).

A judicial recount can be requested by a candidate regardless of whether or not a returning officer recount has already been conducted and regardless of the difference in the number of votes received by elected and defeated candidates.

A request for such a recount would have to be made to the judge within three days of the date of the election, if no returning officer recount is being conducted, or within three days of the conclusion of a returning officer recount, if one is conducted.

If the judge agrees to conduct the recount, he/she would determine the cost, if any, for which the candidate making the request would be responsible.

Election Petition (Sections 68-96)

An election petition will come into focus when a complaint is filed in the Supreme Court concerning an election discrepancy. At that time, the Department of Municipal Affairs should be advised and legal advice sought.

Swearing in of New Council and First Meeting

Newly elected Councils must be sworn in within 14 days following their election. Form *MEF-019 - Oath of Office* is used. The first meeting of a new Council must be held within 14 days of the election

Finances

Election Expenses (Section 66)

The cost of holding elections including the cost of a Returning Officer conducting recount under Section 62 of the Municipal Elections Act is the responsibility of the municipality. The exception is the cost of the first election in a new municipality, this first election is paid for by the Minister of Municipal Affairs.

Campaign Contributions and Disclosure (Section 67)

Within 90 days of their election, elected candidates in a municipal election must file with the Returning Officer, form *MEF-020 - Oath or Affirmation of Campaign Contributions Disclosure*.

The disclosure statement details:

- the total amount of all monetary contributions made to their election campaigns, together with a listing of all individual contributions in excess of \$100 and the names of the contributors of amounts exceeding \$100; or
- the total amount of contributions received if no one contribution exceeded \$100; or
- that no monetary contributions in any amount were made to their campaign.

Once filed, the disclosure statements become an official record of the municipality, and must be made available for public inspection upon request.

Note: *The Returning Officer must ensure that all candidates are advised of this reporting requirement, at the time of their nomination, so that each candidate is aware of the necessity to maintain appropriate records of any campaign contributions he or she receives*

Suggested Rates of Pay for Municipal Elections

Returning Officer - \$200.00 per day

- a) Nomination Day
- b) Election Day
- c) Day of Advance Poll(s) if held

Deputy Returning Officer - \$150.00 per day

- a) Election Day
- b) Day of Advance Poll(s), if held

Poll Clerk - \$100.00 per day

- a) Election Day
- b) Day of Advance Poll(s), if held

Door Guard - \$80.00

Preparation of the Voters List - \$0.30 per name

Typing of the Voters List - \$0.15 per name