

***Eligibility of Candidates and Voters: Municipal Elections***  
***(Section 3.3.1 Returning Officer's Manual)***

A person is eligible to vote if they:

- Are a Canadian citizen;
- Have reached the age of 18 years; and
- Have lived in the community at least 12 consecutive months immediately before Election Day

A person is eligible to be a Candidate if they:

- Are a Canadian citizen;
- Have reached the age of 18 years;
- Have been a resident of the electoral district (ward) at least 12 consecutive months before the close of nominations<sup>1</sup>; and
- Have not been disqualified by other eligibility sections in the *Local Authorities Elections Act*.

Reasons someone cannot be nominated or stand as a candidate:

Professional Conflicts - Section 18(2)

- A judge, territorial judge, youth court judge or justice of the peace<sup>2</sup>;
- A member of the Legislative Assembly;
- A full-time permanent employee of the municipal corporation who receives a salary;
- An election officer involved in the same election; or
- An assessor or auditor of the municipal corporation (section 20 (1)).

Indebtedness – Section 20(1)

- A person who owes the municipal corporation more than \$500 for more than 90 days;
- A person who has a controlling interest in a corporation (owns, directly or indirectly shares of the corporation with more than 10 percent of the voting rights) that owes the municipal corporation more than \$500 for more than 90 days; or
- A person who has not paid municipal taxes due December 31 of any year prior to the election.

Criminal Convictions and Election Offences

- Any person who has been convicted of a major election offense under the *Local Authorities Elections Act* within the three years immediately preceding election day;
- Any person who has been convicted of an offence punishable by imprisonment for five or more years within three years immediately preceding election day, or whose imprisonment (from the offence) ends within three years immediately preceding election day; or
- A person found to have been in a conflict, under the *Conflict of Interest Act*, may be prohibited by a Court Order from becoming a candidate.

<sup>1</sup> A Charter Community Government may have a different length of residency.

<sup>2</sup> A Justice of the Peace must obtain a leave of absence until the election results are declared. If elected, the position of Justice of the Peace is declared “vacant” by the Department of Justice.

***Eligibility of Candidates and Voters: District Education Authorities  
(Section 3.3.3 Returning Officer's Manual)***

A person is eligible to vote if they are:

- A Canadian citizen;
- 18 years old on election day; and
- A resident of the district at least 12 consecutive months prior to Election Day.

A person is eligible to be a candidate if they:

- Meet the eligibility of municipal candidates, have no professional conflicts, and have no criminal convictions that would prevent them from running.

A person is NOT eligible to be a candidate if they:

- Are a member of school staff, as defined in the *Education Act*, in a school in the area within the jurisdiction of the District Education Authority;
- Are a person hired for the delivery of adult education programs; or
- Are an employee of the District Education Authority.

***Residency  
(Section 3.5 Returning Officer's Manual)***

Section 21 of the *Local Authorities Elections Act* interprets "ordinary residence":

- The residence of a person is the home the person intends to return to after an absence;
- A person does not lose his or her residency by leaving his or her home for a temporary purpose; and
- If a person leaves an electoral district with the intention of establishing their residence somewhere else, they lose their residency in the electoral district.

The residence of a single person is the place he/she regularly occupies or to which the person returns.

If a person is a resident of a shelter, hostel or similar place that provides lodging, food or other social service to a person who has no dwelling place, this is the person's place of ordinary residence.

If a person is incarcerated, the ordinary residence before incarceration is the ordinary residence.

If a person is a student, hospitalized or in a medical care facility, or incarcerated and absent from their ordinary residence for more than 6 months, they do not lose their place of ordinary residence as long as it is their clear intention to return at the conclusion of their studies, treatment or incarceration and do return reasonably promptly at the conclusion of their studies, treatment or incarceration.

A person cannot have more than one place of residency. If a person maintains residency in more than one place, the person must make a choice of residence in order to vote for local elections.

## ***Filing Nomination Papers (Section 3.6 Returning Officer's Manual)***

It is recommended that both nominators and the candidate make their declarations in front of the Returning Officer.

**DO NOT WAIT UNTIL THE LAST MINUTE TO FILE YOUR NOMINATION PAPERS**

Remember: Your nominators must be eligible to vote<sup>3</sup>. If an unforeseen event occurs, the candidate may have to find another nominator. Candidates who file at the last moment may not be able to find another nominator in time.

In hamlets, a candidate may run for the position of mayor and councillor, or a candidate may run in both the municipal election and District Education Authority election. A separate set of nomination papers must be filed for each position.

### ***3.6.1 Taking Oaths and Affirmations from Candidates***

Section 30 of the *Local Authorities Elections Act* provides elections officers with the authority of a Commissioner of Oaths, so they may take oaths or declarations of candidates.

### ***3.6.2 Problems with Nomination Forms***

#### Declarations of Eligibility

A candidate may have to file up to three Declarations:

- when filing nomination papers during nominations;
- at the request of the Returning Officer before the close of nominations under Section 38, a candidate may be asked to swear another declaration on specific grounds; and
- at the request of the Returning Officer when a voter or local authority questions the eligibility of a candidate on specific grounds under Section 41.

*It is an offence to make a false declaration.*

If the person signs the declaration in time, they should be included as a candidate on the ballot.

If a voter or the local authority believes an individual is ineligible to serve on Council, the final determination of the eligibility of a candidate is made upon petition to the Supreme Court (s. 89).

#### A Nomination Form is filled out improperly

It is important that the Returning Officer examine the nomination papers carefully, especially if the candidate has difficulty in reading. If an error is realized before nominations close, the error may be corrected and nomination papers resubmitted<sup>4</sup>. The Returning Officer cannot personally change anything on the nomination form.

#### Withdrawing a Nomination

A candidate may withdraw, by written notice, their nomination within 48 hours after nominations close. If done in time, the candidate's name will not appear on the ballot. If the withdrawal is after the deadline, the candidate's name will appear on the ballot.

#### Removal from Ballot for Candidate's Death or Ineligibility

In the event that a candidate dies or otherwise become ineligible after the withdrawal deadline and

at least 10 days before Election Day, the Returning Officer may seek permission from the Chief Municipal Electoral Officer to remove the candidate's name from the ballot.

#### Faxes and Scanned Documents

The Returning Officer may accept faxed or electronically scanned nomination forms, statutory declarations, and proxy application forms if they are confident in their authenticity. {*Electronic Transactions Act*, s. 8}

#### ***Challenge Period (Section 3.5 Returning Officer's Manual)***

Post the notice of candidates nominated as soon as you have it prepared. Candidates and local authorities are usually very interested in whether an election is to be held and the list of candidates. Once the notice is posted, prepare for challenges to the eligibility of candidates or nominators.

A voter or the local authority may challenge the eligibility of a candidate or nominator. Often the local authority will challenge a candidate on the basis of residency or debt in the municipality. Any voter or local authority must, within 72 hours after public notice of the names of the candidates, advise the Returning Officer, in writing, of the reasons a person may be ineligible as a candidate (s. 41(1)) or a nominator.

A Returning Officer who receives a written challenge to a candidate's eligibility must, without delay, give to the candidate the grounds for the challenge in writing, and require an additional Declaration of Eligibility within 48 hours (ss. 41(2) and (3)) after the candidate receives the notice.