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## INFORMATION FOR CANDIDATES

### TOWNSHIP OF LANARK HIGHLANDS

### 2010 MUNICIPAL ELECTIONS

**\*NOTE:**

*The contents of this document are intended only as a guide and the applicable legislation should be consulted. Please note that some of the sections numbers and content may have changed with the passing of Bill 212, the Good Government Act, 2009.*

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## PART A

### INTRODUCTION

#### 1. IMPORTANT DATES

<b>January 4, 2010</b>	Nominations & Campaign Period begins
<b>September 10, 2010</b>	Nomination Day - Nominations accepted from 9:00 a.m. to 2:00 p.m.
<b>September 13, 2010</b>	Nominations to be certified or rejected by the Clerk by 4:00 p.m.  List of Candidates to be posted
<b>October 25, 2010</b>	Voting Day – Voting closes at 8:00 p.m.
<b>December 1<sup>st</sup>, 2010</b>	Council Term Begins
<b>December 31<sup>st</sup>, 2010</b>	Campaign Period ends
<b>March 25<sup>th</sup>, 2011</b>	Financial Filing deadline

#### 2. ELECTED OFFICES

This memorandum has been prepared for the purpose of supplying information, which will be of assistance to persons intending to stand for elected office.

Candidates for school Board offices are encouraged to contact the office of the Director of Education of the appropriate school Board to obtain information on the duties and responsibilities of a trustee. Candidates for the position of representative on the French language section of a school Board should contact the Clerk of the municipality responsible for the election of persons to that office.

It is most important to note that the contents of this document are intended only as a guide to certain provisions of relevant legislation and do not purport to recite all applicable statutory references. **Prospective candidates must satisfy themselves through their own determination that they have complied with the election financing regulations and that they are in fact qualified and not disqualified by law to seek elected office.**

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## (1) Elected Offices

At this election, members will be elected for the period commencing December 1, 2010, and ending November 30, 2014, for the following offices:

- a) **MAYOR**  
(One is elected by all electors of the municipality).
- b) **COUNCILLORS**  
(six to be elected by wards – one from each ward).
- c) **DISTRICT SCHOOL BOARD (English) \***  
(one to be elected by public school electors of the municipality).
- d) **DISTRICT SEPARATE SCHOOL BOARD.**  
(one to be elected by separate school electors of the municipality).
- e) **FRENCH LANGUAGE DISTRICT SCHOOL BOARD**  
(one to be elected by French language separate school electors).
- f) **FRENCH LANGUAGE DISTRICT SEPARATE SCHOOL BOARD**  
(one to be elected by French language electors within the municipality).

### **NOTE:**

#### **Deputy Mayor**

The Deputy Mayor is elected by Council from among the six Ward Councillors at the Inaugural Meeting for the new Council.

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\* The number of trustees to be elected in the municipality on the four school Boards is subject to the final determination and distribution of trustees in accordance with the *Education Act*.

## PART B

### QUALIFICATIONS

#### 1. **Member of Council**

Section 256 and 257 of the *Municipal Act, 2001* "Eligibility".

256. *Every person is qualified to be elected or to hold office as a member of a Council of a local municipality,*
- (a) *who is entitled to be an elector in the local municipality under section 17 of the Municipal Elections Act, 1996; and*
  - (b) *who is not disqualified by this or any other Act from holding such office.*
257. *Every person is qualified to be elected or to hold office as a member of a Council of an upper-tier municipality,*
- (a) *who is entitled to be an elector in a lower-tier municipality within the upper-tier municipality under section 17 of the Municipal Elections Act, 1996; and*
  - (b) *who is not disqualified by this or any other Act from holding the office.*

#### 2. **Elector Qualifications (Council)**

Section 17 of the *Municipal Elections Act, 1996* "Qualifications of Electors".

- 17(2) *A person is entitled to be an elector at an election held in a local municipality if on voting date, he or she,*
- (a) *resides in the local municipality, or) is the owner or tenant of land there, or is the spouse or same-sex partner of such owner or tenant;*
  - (b) *is a Canadian citizen,*
  - (c) *is at least 18 years old, and*
  - (d) *is not prohibited from voting under subsection (3) or otherwise by law.*

#### Persons Prohibited from Voting

- 17(3) *The following persons are prohibited from voting:*
- (a) *A person who is serving a sentence of imprisonment in a penal or correctional institution,*
  - (b) *A corporation.*
  - (c) *A person acting as executor or trustee or in any other representative capacity, except as a voting proxy in accordance with section 44. (SEE SECTION ON VOTING PROXIES)*
  - (d) *A person who was convicted of the corrupt practice described in subsection 90(3), if Voting Day in the current election is less than four years after Voting Day in the election in respect of which he or she was convicted.*

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## **Disqualification of a Member of Council**

## ***Municipal Act Section 258***

- 258(1) The following are not eligible to be elected a member of a Council or to hold office as a member of a Council:
1. Except in accordance with Section (30) of the *Municipal Elections Act, 1996*, an employee of the municipality or a person who is not an employee of the municipality but who is the Clerk or Treasurer of the municipality or who holds any administrative position of the municipality
  2. A judge of any court.
  3. A member of the Assembly as provided in the *Legislative Assembly Act* or of the Senate or House of Commons of Canada. (See “**PART C – NOMINATION PROCEDURES**” for legislation for filing of nominations.)
  4. Except in accordance with Part III of the *Public Service Act*, a crown employee as defined in that Act.
- 258(2) A member of Council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she,
- (a) ceases to be a Canadian citizen;
  - (b) is not a resident in the municipality; the owner or tenant of land in the municipality or the spouse or same-sex partner of an owner or tenant in the municipality; in the case of a member of Council of a local municipality or in a lower-tier municipality within the upper-tier municipality, in the case of a member of Council of an upper-tier municipality; or
  - (c) would be prohibited under this or any other Act from voting in an election for the office of a member of Council of the municipality if an election was held at that time.

### **3. Board Members - Qualifications, Resignations And Vacancies**

#### **Qualification of School Board Members**

Section 219 of the *Education Act*:

- 219 (1) A person is qualified to be elected as a member of a district school board or school Authority if the person is qualified to vote for members of that district school Board or that school Authority and is resident in its area of jurisdiction.
- (2) A person who is qualified under subsection (1) to be elected as a member of a district school Board of school Authority is qualified to be elected as a member of that district school Board or school Authority for any geographic area in the district school Board's or school Authority's area of jurisdiction, regardless of which positions on that district school Board or school Authority the person may be qualified to vote for.
  - (3) A member of a district school Board or school Authority is eligible for re-election if otherwise qualified.

## Disqualification of School Board Members<sup>†</sup>

Section 219 of the *Education Act*:

- (4) Despite Subsection (1), a person is not qualified to be elected or to act as a member of a district school Board or school Authority if the person is,
  - (a) an employee of a district school Board or school Authority;
  - (b) the Clerk or Treasurer or Deputy Clerk or Deputy Treasurer of a municipality or upper-tier municipality, all or part of which is included in the area of jurisdiction of the district school Board or the school Authority;
  - (c) a member of the Assembly or of the Senate or House of Commons of Canada; or (See “**PART C – NOMINATION PROCEDURES**” for legislation for filing of nominations.)
  - (d) otherwise ineligible or disqualified under this or any other Act.
- (5) Despite Subsection (4) a person who is,
  - (a) an employee of a district school Board or school Authority;
  - (b) the Clerk or Treasurer or Deputy Clerk or Deputy Treasurer of a municipality or upper-tier municipality, all or part of which is included in the area of jurisdiction of the district school Board or the school Authority;is not ineligible to be a candidate for or to be elected as a member of a district school Board or school Authority if he or she takes an unpaid leave of absence, beginning no later than Nomination Day and ending on Voting Day, in which case subsections 30(2) to (7) of the *Municipal Elections Act, 1996* apply with necessary modifications.
- (9) A person is not qualified to act as a member of a district school Board or school Authority if the person ceases to hold the qualifications required to be elected as a member of the district school Board or the school Authority.
- (10) No person shall run as a candidate for more than one seat on a district school Board or school Authority and any person who does so and is elected to hold one or more seats on the district school Board or the school Authority is not entitled to act as a member of the district school Board or the school Authority by reason of the election.
- (11) The seat of a member of a district school Board or school Authority who is not qualified or entitled to act as a member of that school Board or that school Authority is vacated.

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<sup>†</sup> See Section 219(7) and (8) of the *Education Act* for additional disqualifications for a by-election.  
*Information for Candidates*

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## PART C

### NOMINATION AS A CANDIDATE

#### Qualified At Time Of Nomination

A person must be qualified at the time of filing the nomination as provided in Section 29(1) of the *Municipal Elections Act, 1996*. A person may be nominated for an office only if, as of the day the person is nominated,

- (a) he or she is qualified to hold that office under the Act that creates it; and
- (b) he or she is not ineligible under the *Municipal Elections Act, 1996* or otherwise prohibited by law to be nominated for or to hold the office.

Notwithstanding the above provision, some persons otherwise disqualified at the time of filing the nomination are entitled to file in accordance with Sections 29(1.1) and (1.2) and 30(1) of the *Municipal Elections Act, 1996*:

- 29(1.1) *Despite subsection (1) and despite section 258 of the Municipal Act, 2001, section 9 of the Legislative Assembly Act and section 219 of the Education Act, a member of the Legislative Assembly of Ontario or the Senate or House of Commons of Canada is not ineligible to be nominated for an office in an election by virtue of being a member of any of those bodies but, if the person is a member of any of those bodies as of the close of nominations on Nomination Day of the election, the nomination shall be rejected by the Clerk under section 35.*
- 29(1.2) *Subsection (1.1) does not apply to a member of the Executive Council of Ontario or a federal Minister of the Crown.*
- 30(1) *An employee of a municipality or local Board is eligible to be a candidate for and to be elected as a member of the Council or local Board that is the employer if he or she takes an unpaid leave of absence beginning as of the day the employee is nominated and ending on Voting Day.*

In addition to these provisions in the *Municipal Elections Act, 1996*, the *Education Act* has been amended to provide for parallel changes for a candidate for a district school Board or a school Authority. (See Section 219(5) of the *Education Act*.)

## Nomination Procedure

Every person who proposes to be a candidate must file nomination papers prior to receiving any campaign contributions and prior to expending any funds on a campaign. A candidate may file papers as early as January 4, 2010 (or the first day after that the Clerks' office is open) with respect to the 2010 election.

### Section 33 of the *Municipal Elections Act, 1996*

- (1) *A person may be nominated for an office by filing a nomination in the Clerk's office, in person or by an agent.<sup>‡</sup>*
- (2) *The nomination shall,*
  - (a) *be in the prescribed form;*
  - (b) *be accompanied by a declaration of qualification<sup>§</sup> in the prescribed form, signed by the person being nominated;*
  - (c) *be accompanied by the prescribed nomination filing fee (\$200.00 for Head of Council position; \$100.00 for all other offices).*
- (3) *If the person was previously nominated for an office on the same Council or local Board in the same election and paid the nomination filing fee at that time,*
  - (a) *clause (2) (c) does not apply; and*
  - (b) *for the purposes of section 34 (refund) and paragraph 9 of subsection 67 (2) (expenses), the fee paid at the time of the earlier nomination shall be deemed to have been paid in connection with the later one.*

### Time for Filing

- (4) *The nomination may be filed,*
  - (a) *between January 1 and any day in the year of the regular election that is before Nomination Day, at a time when the Clerk's office is open; or*
  - (b) *on Nomination Day between 9 a.m. and 2 p.m.*

**For the 2010  
Elections,  
Nomination  
Day is on  
September  
10, 2010.**

### Exception for Additional Nominations

- (5) *If the number of nominations filed for an office and certified under section 35 is less than the number of persons to be elected to the office, additional nominations may be filed between 9 a.m. and 2 p.m. on the Wednesday following Nomination Day. (September 15, 2010)*

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<sup>‡</sup> Facsimile transmissions or mailed-in nomination forms will not be accepted.

<sup>§</sup> The declaration of qualifications must be taken before a Commissioner of Oaths. The municipal Clerk's office can administer this declaration for you.

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## **Refund of Deposit**

A candidate is entitled to receive a refund of the nomination filing fee if he or she:

- (a) withdraws the nomination under Section 36;
- (b) is elected to the office; or
- (c) receives more than the prescribed percentage of the votes cast in the election for the office \*\*.

## **Certification of Nomination by Clerk**

35 (1) *The Clerk shall examine each nomination that has been filed, in accordance with the following timetable:*

- (i) *All nominations filed on or before Nomination Day shall be examined before 4 p.m. on the Monday following Nomination Day. (September 13, 2010)*
- (ii) *All additional nominations filed under subsection 33(5) shall be examined before 4 p.m. on the Thursday following Nomination Day. (September 16, 2010)*

(2) *If satisfied that a person is qualified to be nominated and that the nomination complies with this Act (Municipal Elections Act, 1996), the Clerk shall certify the nomination by signing the nomination paper.*

(3) *If not satisfied that a person is qualified to be nominated or that the nomination complies with this Act, the Clerk shall reject the nomination.*

(4) *When the Clerk rejects a nomination, he or she shall, as soon as possible, give notice of the fact to the person who sought to be nominated and to all candidates for the office.*

(5) *The Clerk's decision to certify or reject a nomination is final.*

Since it is the responsibility of the candidate to ensure they meet all the qualifications and file proper nomination papers, each candidate should contact the Municipal Clerk to ensure that their nomination forms are in order. Since the Clerk may examine the nomination papers after the nomination period ends and may reject them, a candidate may find that their papers have been rejected and they are too late to file additional information or provide proof to the Clerk of their qualifications. Candidates may wish to contact the Clerk of the municipality and determine the method to be used to certify nomination papers in order to prevent any misunderstanding. If nomination papers are filed early it will assist the Clerk in certifying the papers before nominations close.

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\*\* The prescribed percentage of the vote for the return of deposit is at least 2% of the total votes cast for the same office.

## PART D

### CAMPAIGN INFORMATION

#### 1. ELECTION CONTRIBUTIONS AND EXPENSES

The *Municipal Elections Act, 1996* imposes limitations on the expenses for candidates in municipal elections and also imposes requirements on the candidate to report the contributions received and the funds expended.

#### CAMPAIGN CONTRIBUTIONS

##### **What is a campaign contribution?**

A contribution means money, goods and services given to and accepted by or on behalf of a person for his or her election campaign and includes the following:

- (a) an amount charged for admission to a fund-raising function,
- (b) if goods and services are sold at a fund-raising function for more than their market value, the difference between the amount paid and market value,
- (c) if goods and services used in a person's election campaign are purchased for less than their market value, the difference between the amount paid and market value, and
- (d) any unpaid but guaranteed balance in respect of a loan.

The following amounts are not considered contributions:

- (a) the value of services provided by voluntary unpaid labour,
- (b) the value of services provided voluntarily, under the person's direction, by an employee whose compensation from all sources for providing them does not exceed the compensation the employee would normally receive for the period the services are provided,
- (c) an amount of \$10 or less that is donated at a fund-raising function
- (d) the value of political advertising provided without charge on a broadcasting undertaking as defined in Section 2 of the *Broadcasting Act (Canada)*, if
  - (i) it is provided in accordance with that Act and the regulations and guidelines made under it, and
  - (ii) it is provided equally to all candidates for office on the particular Council or local Board,
- (e) the amount of a loan

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### **What is the value of goods and services donated as contributions?**

The value of goods and services provided as a contribution is the lowest amount that the contributor or a business supplying similar goods and services charges to the public in the same market area at the same time.

### **When may a candidate conduct fund-raising and incur campaign expenses?**

The candidate may incur campaign expenses and may accept donations on the day he or she files a nomination. This is the start of the campaign period<sup>††</sup>. The campaign period ends:

- (a) on December 31 in the election year, or;
- (b) on the day the nomination is withdrawn or deemed to be withdrawn, or;
- (c) on Nomination Day if the nomination is rejected, or;
- (d) if the candidate has a deficit at the time the campaign period would otherwise end and notifies the Clerk in writing on or before December 31, 2010, the campaign period is extended until the earliest of the following:
  - (i) June 30, 2011
  - (ii) the day he or she is nominated in a subsequent election for an office on the Council or local Board in respect of which the deficit was incurred;
  - (iii) the day the candidate notifies the Clerk in writing that he or she will not accept further contributions, and
  - (iv) the day A equals the total of B and C, where,
    - A = any further contributions,
    - B = the expenses incurred during the extension of the election campaign period,
    - C = the amount of the candidates deficit at the start of the extension of the election campaign period.

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<sup>††</sup> In the event of a recount, a candidates campaign period could be affected. See Section 68(5) of the *Municipal Elections Act, 1996* for details.

## **What are the responsibilities of the candidate with respect to campaign finances?**

It is the responsibility of the candidate to ensure that:

1. One or more campaign accounts are opened at a financial institution exclusively for the purposes of the election and in the name of the candidate's election campaign,
2. All contributions of money are deposited into the campaign accounts,
3. All payments for expenses are made from the campaign accounts (except for filing fee),
4. All contributions are valued,
5. Receipts are issued for every contribution and obtained for every expense,
6. Financial filings are made as required by the *Municipal Elections Act 1996*,
7. Proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions of behalf of the candidate,
8. Any contribution of money in contravention of this Act is returned to the contributor as soon as possible after the candidate becomes aware of the contravention. That any such contribution not returned is paid to the Clerk,
9. Any anonymous contribution is paid to the Clerk,
10. Records are kept of the following:
  - receipts issued for contributions, the value of every contribution, whether a contribution was in the form of money, goods or services, and the contributors name and address;
  - every expense including the receipts obtained for each expense;
  - any claim for payment of expenses that the candidate disputes or refuses to pay;
  - the gross income from a fund-raising function and gross amount of money received at a fund-raising function by donations of \$10 or less;
  - any loan and its terms,
11. The records described in clause 10 are retained for the term of office of the members of the Council or local Board and until their successors are elected and the newly elected Council or local Board is organized.

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### **Who can make contributions?**

Contributions can only be made to candidates who are nominated and it is illegal to make a contribution to a candidate who is not nominated.

The following may make contributions:

- an individual who is normally resident in Ontario;
- a corporation that carries on business in Ontario;
- a trade union that holds bargaining rights for employees in Ontario;
- the candidate and his or her spouse, or same sex partner.

### **Who cannot make contributions?**

1. A federal political party, a federal constituency association or a candidate at a federal election endorsed by a party,
2. A provincial political party, constituency association, registered candidate or leadership contestant, registered under the *Elections Finances Act*,
3. The Crown in Right of Canada or Ontario, a municipality or local Board.

### **What limits are there on contributions?**

Contributions under \$25 may be made in cash. Any contribution over that amount must not be cash. No contributor may contribute in excess of \$750 to any one candidate in an election regardless of the number of offices for which the candidate has been nominated. There are no limits on the amount an individual or a spouse or same sex partner, may contribute to their own campaign.

No person shall make contributions of money that does not belong to the contributor with the exception of loans granted by a lending institution, which are permitted under the Act.

### **What restrictions are there on fund-raising events?**

The legislation prohibits fund-raising functions for a person who is not a candidate. In addition, fund-raising events can only be held during the candidate's campaign period.

### **Can I borrow money for my campaign?**

The candidate or their spouse, or same sex partner, may borrow money for their campaign from any bank or other recognised lending institution in Ontario. The money must be paid in to the candidate's campaign account. No person other than the candidate, or his or her spouse or same sex partner, may guarantee the loan.

## CAMPAIGN EXPENSES

## SECTION 67(2)

Expenses are considered to be costs incurred for goods or services by or on behalf of a person wholly or partly for use in his or her election campaign and, without restricting the generality of the foregoing, includes the following:

1. the replacement value of goods retained by the person from any previous election and used in the current election,
2. the value of contributions of goods and services,
3. interest on loans,
4. the nomination filing fee,
5. audit and accounting fees,
6. the cost of holding fund-raising functions,
7. the cost of holding parties and making other expressions of appreciation after the close of voting,
8. expenses relating to a recount,
9. expenses relating to invalid elections,
10. expenses related to a compliance audit,
11. expenses incurred by a candidate with a disability that are directly related to the disability and would not have been incurred if not for the election.

It is to be noted that the maximum campaign expense allowed for a candidate does not apply in respect of expenses described in items 5 to 11 inclusive above.

Campaign expenses may only be incurred after a candidate is nominated and only incurred by the candidate or an individual acting on behalf of the candidate. It is the responsibility of the candidate to ensure that copies of receipts are kept for all expenses.

### **What Limits Are There On Campaign Spending?**

The *Municipal Elections Act, 1996*, provides that the Minister has prescribed the campaign spending limits in *O. Regulation. 383/02*.

1. *Subsection 1(1) of Ontario Regulation 101/97 is amended by adding at the end "except for the office of head of Council of a municipality, in which case the filing fee is \$200".*
2. *Paragraphs 1 and 2 of section 5 of the Regulation are revoked and the following substituted:*
  1. *In the case of a candidate for the office of head of Council of a municipality, the amount shall be calculated by adding together \$7,500 plus 70 cents for each elector entitled to vote for the office.*
  2. *In the case of a candidate for another office, the amount shall be calculated by adding together \$5,000 plus 70 cents for each elector entitled to vote for the office.*
  3. *This Regulation came into force on January 1, 2006.*

The Clerk will provide a calculation of the number of voters eligible to vote in the election within 10 days after Nomination Day. This will be September 20, 2010.

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## 2. **FINANCIAL REPORTING**

On or before 2:00 p.m. on the last Friday in March in the year following an election year (March 25, 2011) each candidate shall file the necessary financial reports with the Clerk.

### **Expenses Under \$10,000**

If the candidate's campaign expenses and contributions were each less than \$10,000 he or she must file a financial statement in the prescribed form.

### **Expenses Over \$10,000**

If the candidate's expenses or contributions were over \$10,000 they are required to submit, in the prescribed forms, a financial statement and an auditors report licensed under the *Public Accountancy Act*.

### **Campaign Surpluses**

Any surplus in a candidate's campaign in excess of \$500 must be paid to the Clerk. The Clerk will hold that amount in trust for the candidate and will return it, with interest, to the candidate for the next election, if the candidate runs for office on the same Council or local Board. If the candidate does not run again, the surplus becomes the property of the municipality or local Board.

### **Campaign Deficits And Extending Campaign Periods**

If a candidate has a deficit in their campaign they may extend the campaign period beyond December 31, 2010 to obtain additional contributions in order to eliminate the deficit, by notifying the Clerk in writing on the appropriate form of the extension on or before December 31, 2010.

The campaign may be extended until:

- the deficit is eliminated, or
- the day the candidate is nominated for a new election on the same Council or local Board, or
- the day the candidate notifies the Clerk that no further donations will be accepted, or
- June 30, 2011.

If a candidate extends the campaign period, supplementary reporting period financial statements (and auditor's reports) will be required. The supplementary reporting period will end on September 30, 2011. There are no further extensions of any campaign period beyond June 30, 2011. The financial statements and auditor's reports must be filed on September 30, 2011.

## Penalties For Non Compliance

If a candidate fails to:

- a) file the required documents,
- b) pay a surplus over \$500 to the Clerk, or
- c) file documents showing on its face that the candidate exceeded the spending limits.

in addition to any other penalty imposed under the *Municipal Elections Act*, a candidate is subject to the following penalties:

1. In the case of the defaults described in clauses (b) and (c),
  - (i) the candidate forfeits any office to which he or she was elected and the office shall be deemed to be vacant,
  - (ii) until the next regular election has taken place, the candidate is ineligible to be elected or appointed to any office to which this Act applies.

In the case of the defaults described in clause (a), the candidate is suspended without pay from any office to which he or she was elected until the document is filed and subparagraphs 1(i) and (ii) apply if the candidate has not filed the document within ninety one [91] days after the last day the document was required to be filed.

### **Notice Of Default**

The Clerk is required to notify a candidate within ten [10] days after a default in filing. The candidate will be provided an opportunity to correct the default within the period of the twelve [12] days following the day the notice was mailed by the Clerk.

### **Application To Extend The Time To File The Required Documents**

A candidate, may, within ninety one [91] days after the last day for filing a document under Section 78 of the *Municipal Elections Act*, apply to the Ontario Court of Justice to extend the time for filing the document under that section and, if the Court is satisfied there are mitigating circumstances justifying a later date for filing the document, the Court may grant an extension for the minimum period of time necessary for the candidate to file the document.

Section 80(6) of the *Municipal Elections Act*, which provides for the extension of the filing date, refers only to the failure to file documents required under Section 78 of the Act. It does not appear to apply to the payment of any surplus funds to the Clerk as required under Section 79 of the Act.

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### **Effect Of Extension**

If an extension for filing a document is granted:

- (a) the suspension of a candidate under Subsection (2) is extended until the earlier of the day the document is filed and the end of the extension; and
- (b) the penalties under subparagraphs 1(i) and (ii) of Subsection (2) for failing to file the document only apply if the candidate has not filed the document before the end of the extension.

### **When Penalties In Effect**

If a candidate was elected to office and fails to file a required financial statement or auditors report (or any other document required under Section 78 of the *Municipal Elections Act*) within the twelve [12] day period after the Clerk has mailed a notice of default to the candidate, the candidate is suspended, without pay from any office to which he or she was elected until the document is filed.

Such a candidate does have the remainder of the ninety one [91] day period to apply for an extension of time to file the documents however, the suspension is imposed and remains in effect until the earlier of the day the document is filed and the end of the extension period. If the document is not filed in accordance with the time set by the Court, the penalties outlined in Subsections 1(i) and (ii) in “**Penalties For Non Compliance**” as outlined above apply.

If a candidate that was not elected does not comply with the filing requirements and does not apply to the Ontario Court of Justice for an extension, the penalties will take effect ninety one [91] days after the last day for filing the required documents. If such a candidate does apply to the Ontario Court of Justice and fails to file the documents by the date established by the Court, the penalties will take effect at the end of the period of extension.

### **Compliance Audits**

Every council and school board must appoint a compliance audit committee. Members of a compliance audit committee cannot be members of the council or school board, an employee, or a candidate in the election.

A qualified elector may apply to the compliance audit committee for a compliance audit of a candidate’s financial return. The application must be in writing, and set out the elector’s reasons for why they believe the *Municipal Election Act, 1996*, as amended, has been contravened. The application must be submitted to the municipal clerk or the secretary of the school board within 90 days of the filing date.

The compliance audit committee will consider the application and decide whether to retain an auditor to undertake a compliance audit of the candidate’s financial return. The decision of the committee may be appealed to the Ontario Court of Justice. If a compliance audit is undertaken, the committee will consider the auditor’s report. If the compliance audit determines that there has been an apparent contravention of the Act, the committee will decide whether to proceed with legal action. A person who believes that a candidate has contravened the Act may proceed with legal action without first obtaining a compliance audit.

### 3. **SCRUTINEERS (Candidates' Agents)**

Each candidate may appoint in writing any number of persons as are necessary to act as a Scrutineer and to represent them at the voting place and to be present during the counting of the votes.

Scrutineers must be appointed in writing and upon request shall show proof of his or her appointment to an election official.

Only one Scrutineer may be in the voting place for each candidate for each ballot box and if the candidate enters the voting place the number of Scrutineers that may be present is reduced by one.

#### **Candidates And Scrutineers Have The Following Rights:**

(These rights may not apply to the use of an alternative voting method).

- to be present when ballot boxes and materials related to the advance voting and the ballot boxes and statement of the results are being delivered to the Clerk.
- to enter the voting place 15 minutes before it opens and to inspect the ballot boxes and the ballots, and all other election documents but not so as to delay the opening of the voting place.
- to place their own seal on the ballot box before the opening of the voting place.
- to place his or her own seal on the ballot box after the close of voting on an advance vote so ballots cannot be withdrawn or deposited without breaking the seal.
- to examine each ballot as the votes are being counted but not to touch the ballot.
- to object to a person voting.
- to object to a ballot or to the counting of votes in a ballot, (this applies to a manual count system only)
- to sign the statement of the results of an election.
- to place his or her own seal on the ballot box after the counting of the votes so that ballots cannot be taken out or deposited.

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### **Scrutineers And Candidates Are Prohibited From The Following:**

- prohibited from attempting, directly or indirectly, to interfere with how an elector votes, and prohibited from attempting to campaign or persuade an elector to vote for a particular candidate,
- displaying a candidate's election campaign material in a voting place,
- compromise the secrecy of the voting,
- interfere or attempt to interfere with an elector who is marking a ballot,
- obtain or attempt to obtain, in a voting place, any information about how an elector intends to vote or has voted,
- communicate any information obtained at a voting place about how an elector intends to vote or has voted.

### **Rights Of Scrutineers And Automated Vote Counting Equipment And Alternative Voting Methods**

It should be noted that many municipalities utilize automated vote counting equipment or an alternative voting process such as voting by mail, Internet voting or telephone voting. The use of any of these methods alters the procedures followed in an election, which may impact the opportunity to scrutinize the election process. Candidates in an election where one of these election methods is being used should consult with the municipal Clerk regarding the opportunities for scrutinizing the election available to the candidates or scrutineers.

## 4. ELECTION SIGNS

### 4.1 POLICY STATEMENT

***The purpose of this policy is to standardize “Campaign Materials/Posters/Signage”.***

### 4.2 SCOPE

This policy applies to all election campaign materials, posters or signage within the Township of Lanark Highlands, to ensure public safety on Township roads and highways during an election period.

### 4.3 PROCEDURE

**4.3.1** No campaign material, posters or signage shall be permitted on any municipal property with the only exception being along municipal road allowances. This includes the following, which is not meant to be a complete and exhaustive list:

**4.3.1.1** “No campaign materials, posters, signage, etc. will be permitted in municipal parks, arenas, community centres, vacant lands, municipal buildings or structures, etc.

**4.3.2** Campaign materials, posters or signage shall be permitted along municipal road allowances providing the following conditions are respected:

**4.3.2.1** that the visibility of intersections or private entrances is not obstructed and do not create a safety condition.

**4.3.2.2** that the posters or similar campaign material is of sufficient texture and or proper installation that weather conditions will not displace this material and create a safety hazard on municipal roads.

**4.3.3** Campaign materials, posters or signage that will be installed on provincial or county roads will require the permission of these respective approving authorities.

**4.3.4** Campaign materials, posters or signage that will be installed or affixed to poles belonging to Hydro One Network, Bell Canada or other public utilities will require the permission of these respective approving authorities.

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**4.3.5** The Township of Lanark Highlands, its municipal servants, employees or agents shall not be responsible for investigating or prosecuting for any acts of vandalism to the campaign materials, posters or signage of the candidates.

**4.3.6** Should any campaign materials, posters or signage be located on municipally owned property or be located on municipality owned road allowances which do not comply to the provisions of this policy, the same shall be removed forthwith and destroyed.

**4.3.7** All candidates shall be required to remove all campaign materials, posters or signage along municipally owned road allowances within 30 days following a municipal election. Should such materials continue to be located, the same shall be removed and destroyed.

#### **4.4 RESPONSIBILITY**

The Clerk and/or the Returning Officer is responsible for ensuring compliance with this policy.

#### **4.5 AMENDMENTS**

Amendments to this policy shall not require an amendment to By-Law No. 2006-712 but may be approved by resolution of Council.

## 5. PROHIBITION OF CANVASSING IN VOTING PLACES

The Clerk is the lessee of the premises used as voting places. As the lessee of such premises, the Clerk does not permit electioneering of any nature in or on the premises used as a voting place on Voting Day. The premise is deemed to include the entire building and the property on which it is located.

Section 48(2) of the *Municipal Elections Act, 1996* provides as follows:

*"No person shall display a candidate's election campaign material or literature in a voting place"*

Section 48(3) of the *Municipal Elections Act, 1996* provides as follows:

*"For the purpose of this section, 'voting place' includes any place in the immediate vicinity of the voting place designated by the Clerk."*

Deputy Returning Officers are instructed to remove forthwith from any voting place any material or literature of any nature, which may be deposited therein.

In view of the substantial number of school buildings used for voting purposes the attention of candidates is also drawn to the policies of the school Boards and provisions of the *Education Act* which provide as follows:

- i) No agent or representative may canvass in the schools, nor exhibit advertising material in the schools or on the school property, without the approval in writing of the Director of Education.
- ii) All visitors to schools must report to the office.
- iii) It is the duty of a principal of a school, in addition to his duties as a teacher, to maintain a visitors' book in the school when so determined by the Board.

Thus, it should be noted from the foregoing that in connection with municipal elections, only persons attending a school building for the purpose of casting their ballot, duly qualified election officials, candidates or their authorized agents in, or going to or from the voting place, may be present on school premises.

**6. ACCESS TO RENTED PREMISES BY CANDIDATE OR THEIR AUTHORIZED REPRESENTATIVES**

Section 22 of the *Tenant Protection Act* provides that:

*"No landlord shall restrict reasonable access to a residential complex by candidate for election to, any office at the federal, provincial or municipal level or their authorized representative, if they are seeking access for the purpose of canvassing or distributing election material."*

**7. ACCESS TO CONDOMINIUMS BY CANDIDATE OR THEIR AUTHORIZED REPRESENTATIVES**

Section 118 of the *Condominium Act* provides as follows:

*"No corporation or servant or agent of a corporation shall restrict reasonable access to the property by candidates, or their Authorized Representatives, for election to the House of Commons, the Legislative Assembly, any office in a municipal government or School Board for the purpose of canvassing or distributing election material."*

## PART E

### GENERAL INFORMATION

#### 1. DEFINITION OF RESIDENCE

In determining the eligibility of electors one must examine the meaning of residence. Provisions exist to allow for the homeless to be enumerated and vote.

Section 2 of the *Municipal Elections Act, 1996* reads as follows:

- 2 (1) *For the purposes of this Act, a person's residence is the permanent lodging place to which, whenever absent, he or she intends to return.*
- (2) *The following rules apply in determining a person's residence:*
  1. *A person may only have one residence at a time.*
  2. *The place where a person's family resides is also his or her residence, unless he or she moves elsewhere with the intention of changing his or her permanent lodging place.*
  3. *If a person has no other permanent lodging place, the place where he or she occupies a room or part of a room as a regular lodger or to which he or she habitually returns is his or her residence."*

Section 3 of the *Municipal Elections Act, 1996* reads as follows:

- If a person has no permanent lodging place as described in subsections (1) and (2), the following rules apply in determining his or her residence:*
1. *The place to which the person most frequently returned to sleep or eat during the five weeks preceding the determination is his or her residence.*
  2. *If the person returns with equal frequency to one place to sleep and to another to eat, the place to which he or she returns to sleep is his or her residence.*
  3. *Multiple returns to the same place during a single day, whether to eat or to sleep, shall be considered one return.*
  4. *A person's affidavit regarding the places to which he or she returned to eat or sleep during a given time period is conclusive, in the absence of evidence to the contrary.*

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2. **ENUMERATION**

The Preliminary List of Electors for the Township of Lanark Highlands is prepared by the Municipal Property Assessment Corporation and contains the names and addresses and school support of each person who is listed in the Corporation's data and who meets the qualifications of an elector. The list is delivered to every municipality in Ontario on a date between July 31<sup>st</sup> and September 1<sup>st</sup> of an election year as agreed upon by the clerk and MPAC or, if no date is agreed upon, on July 31<sup>st</sup> or such date as prescribed.

3. **REVISION OF PRELIMINARY LIST OF ELECTORS**

The Clerk of the municipality will print the Preliminary List of Electors by September 1, 2010. Applications for amendments to the Voters' List will be accepted by the Clerk commencing on September 7, 2010 and ending at 8:00 p.m. on Voting Day (October 25, 2010).

Copies of the Preliminary List of Electors may be viewed at:

The Municipal Office  
75 George Street  
Lanark, ON K0G 1K0

Monday – Friday 8:30 a.m. – 4:30 p.m.

4. **PROXY VOTING** – NOT APPLICABLE

**NOTE: PROXIES ARE NOT USED FOR VOTE-BY-MAIL PROCEDURES**

5. **ADVANCE VOTE<sup>††</sup>** - NOT APPLICABLE

**NOTE: VOTE-BY-MAIL DOES NOT REQUIRE ADVANCE POLLS**

6. **VOTING DAY**

Voting Day is Monday, October 25, 2010 with general voting places open from 10:00 a.m. to 8:00 p.m. with the counting of votes to take place after the closing of the vote.

Ballots may be dropped off at the Municipal Office until 8:00 p.m. on October 25, 2010.

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<sup>††</sup> This section will not be necessary if mail or telephone voting is being used.

**7. VOTING PLACES**

Municipal Office  
75 George Street  
Lanark, ON K0G 1K0

**8. VOTER NOTIFICATION - NOT REQUIRED FOR LANARK HIGHLANDS.**

**9. VOTING NOTICE**

The Clerk will place an advertisement in a newspaper providing notice to all residents of the municipality of the dates and times on which the voting places will be open, including advance voting, and the manner in which electors may use voting proxies and instructions on how to use the alternative voting method being utilized.

**10. FORM OF BALLOTS**

The municipality uses a fully composite ballot. Each elector receives one ballot, which contains all ballots for every office for which they are entitled to vote. There will be of course different ballots for public school electors, separate school electors and for French language separate school electors so that no elector will receive a ballot for offices for which they are not entitled to vote.

**11. ELECTORS ABSENCE FROM WORK**

An elector is entitled to have three consecutive hours to vote on Voting Day (October 25, 2010). If an elector's normal hours of employment are such that they would not have three consecutive hours to attend the voting station, the employer must allow them to be absent and the absence shall be timed to suit the employer's convenience as much as possible. The employer shall not make a deduction from the employee's pay or impose any other penalty for the absence from work.