



SPECIAL COUNCIL MEETING

Wednesday, October 16, 2024, 6:00 p.m.

	Pages
1. CALL TO ORDER	
2. ADOPTION OF THE AGENDA	
3. CONFLICT OF INTEREST	
4. COMMITTEE MINUTES & REPORTS	
4.1 Options to Fill Vacant Council Seat - CAO-24-039	2
5. PROCEEDINGS BY-LAW	
5.1 Proceedings By-law No. 2024-062	34
2024-062 - A by-law to confirm the proceedings at the Council Meeting of the Corporation of the Town of Niagara-on-the-Lake on October 16, 2024	
6. ADJOURNMENT	



Town of Niagara-on-the-Lake

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REPORT #: CAO-24-039

COMMITTEE DATE: 2024-10-16

DUE IN COUNCIL: 2024-10-16

REPORT TO: Special Council

SUBJECT: Options to Fill Vacant Council Seat

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council receive Staff Report CAO-24-039 entitled “Options to Fill Vacant Council Seat”; and,
- 1.2 Council direct staff to proceed with Option ____ to fill the vacant Councillor Seat.

2. EXECUTIVE SUMMARY

At the Special Council meeting on September 17, 2024, per Report CAO-24-038, Council declared vacant the office of a Member of Council following the resignation of Nick Ruller.

In accordance with the Municipal Act, S.O. 2001, c.25, when the seat of a Member of Council becomes vacant, Council shall within 60 days after the day a declaration of vacancy is made fill the vacant Council office by either appointing a person to fill the vacancy or passing a by-law requiring a by-election.

This report provides Council with a number of options and considerations to fill the vacancy.

Council must act to fill the vacant seat by November 16, 2024.

3. PURPOSE

This report outlines Council’s obligations and options for filling the currently vacant Council Member office.

4. BACKGROUND

At the Special Council meeting on September 17, 2024, per Report CAO-24-038, Council declared vacant the office of a Member of Council following the resignation of Nick Ruller.

Municipal Act Provisions:

When a vacancy on Council occurs, Council is faced with the decision on how to fill the vacant office for the remainder of the term. The Municipal Act provides the following two options:

Filling vacancies

263 (1) If a vacancy occurs in the office of a member of council, the municipality shall, subject to this section,

- (a) fill the vacancy by appointing a person who has consented to accept the office if appointed; or
- (b) require a by-election to be held to fill the vacancy in accordance with the Municipal Elections Act, 1996.

Section 263(5) establishes the rules applying to filling vacancies.

Rules applying to filling vacancies

263 (5) The following rules apply to filling vacancies:

1. Within 60 days after the day a declaration of vacancy is made with respect to the vacancy under section 262, the municipality shall,
 - i. appoint a person to fill the vacancy under subsection (1) or (4), or
 - ii. pass a by-law requiring a by-election be held to fill the vacancy under subsection (1).
2. Despite paragraph 1, if a court declares an office to be vacant, the council shall act under subsection (1) or (4) within 60 days after the day the court makes its declaration.
3. Despite subsections (1) to (4), if a vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the vacancy.

Section 264 of the Municipal Act, 2001, provides that a person appointed or elected to fill a vacancy shall hold the office for the remainder of the term of the person he or she replaced.

Section 256 of the Municipal Act, 2011 sets out the eligibility requirements for persons qualified to be elected or to hold office as a member of a Council of a local municipality. To be an elector, the person under consideration must, on voting day, (a) reside in the municipality or be the owner or tenant of land there, or the spouse of such owner or tenant, (b) be a Canadian Citizen, (c) be at least 18 years old and (d) not be prohibited from voting.

Under section 258 (1) of the Municipal Act, 2001, the following are not eligible to be elected as a member of a council or to hold office as a member of a council: an employee of the municipality; a person who is not an employee of the municipality but who is the clerk, treasurer, Integrity Commissioner, Auditor General, Ombudsman, registrar or an investigator of the municipality; a person who is not an employee of the municipality but who holds any administrative position of the municipality; a judge of any court; a member of the Legislative Assembly or of the Senate or House of Commons of Canada; and a public servant.

5. DISCUSSION / ANALYSIS

Historical Experience

Previous Councils for the Town of Niagara-on-the-Lake have filled Council vacancies by appointment. In almost all cases, the candidate with the next highest number of votes (9th place for Municipal Council or 2nd place in the case of Regional Council) were appointed to fill the vacancy for the remainder of the term.

On December 16, 1985, Wilbert Dick was elected as the Town's Regional Council representative. Mr. Dick was elected by Regional Council as Regional Chair. Harold Clement was appointed by Town Council to fill the vacancy of the Regional Council positions.

It is interesting to note that, when asked by the Region to appoint a person to replace Mr. Dick as the Town's representative on Regional Council, the Town of Niagara-on-the-Lake Council chose to appoint Mr. Clement rather than the person who had placed second in the election for Regional representative. Jim Collard was appointed to fill the position left vacant on Council when Mr. Clement was appointed to Regional Council. Mr. Collard had placed ninth in the municipal election held in November, 1985.

On September 21, 1987, Kevan O'Connor was appointed to fill the position left vacant on Council by the resignation of Alderman Michael Dietsch, who left to take the position of MPP. It is also important to note that Mr. O'Connor had placed tenth in the municipal election held in 1985.

In 2002, Rob Copeland resigned his seat as Alderman for the Town of Niagara-on-the-Lake. Council appointed Tom Braybrook, who had finished 9th overall in the 2000 Municipal Election.

In 2008, Gary Zalepa was appointed when a vacancy occurred on Council from the passing of Councillor Bob Howse. Mr. Zalepa finished ninth overall in the 2006 Municipal Election.

In 2010, two candidates ran for Regional Councillor for the Town of Niagara-on-the-Lake in the October 25, 2010 Municipal Election, Gary Burroughs and Dave Lepp. Mr. Burroughs was elected as the Town's Regional Council representative. Regional Council advised on December 9, 2010 that Mr. Burroughs was elected Regional Chair, and therefore created a vacant seat on Regional Council. Council appointed Mr. Lepp, who had placed second in the race for Regional Council to fill the vacancy.

In 2020, Sandra O'Connor was appointed when a vacancy occurred on Council from the resignation of Stuart McCormack. Ms. O'Connor finished ninth overall in the 2018 Election.

The 2022 Municipal elections results are as follows:

Rank Candidate Total Votes

1. Erwin WIENS	4,978
2. Gary BURROUGHS	4,273
3. Wendy CHEROPITA	3,774
4. Tim BALASIUK	3,742
5. Sandra O'CONNOR	3,391
6. Nick RULLER	3,318
7. Adiana CATER (VIZZARI)	3,152
8. Maria MAVRIDIS	2,897
9. Allan BISBACK	2,831
10. John William MCCALLUM	2,481
11. Richard MELL	2,079
12. Alistair (AJ) HARLOND	1,979

Options For Filling the Vacant Seat on Council

The following are a number of options for Council consideration to fill the Councillor vacancy. This list is not exhaustive. Council has the option of filling the vacancy in any way that is in compliance with the legislation.

The 2022 Voters Guide for Ontario Municipal Council and School Board Elections (Appendix I) provides additional information on filling vacancies and notes that “sometimes councils want to put additional restrictions on appointees, such as requiring that an appointee agree not to run in the next regular election. While a Council may set this as a condition for appointment, there is nothing in provincial legislation that would prevent someone who was appointed from running in the next election”.

Option #1: Pass a By-law Requiring a By-Election be Held to Fill the Council Vacancy

Council has the option of passing a by-law authorizing a by-election. The Municipal Elections Act (“MEA”) states that if such a by-law is passed, that the nomination day would occur a maximum of sixty (60) days from the passing of the by-law (potentially December 2024), with voting day occurring forty-five (45) days after nomination day (potentially February, 2025). The MEA states that a by-election must be held “as far as possible” in the same manner as the regular election, which could entail multiple voting locations and advanced polls. A by-election may be the most democratic option to fill the vacancy, but will also be the most costly.

These costs include things such as retaining tabulators and printing ballots and costs for Canada Post to mail the Voter Information Letters. Though the by-election would be for a single vacant council seat, the cost would be very similar to the previous election as the same steps are required, including updating the Voter’s List.

Option #2: Appointment Process

The Municipal Act, 2001 does not set out requirements relating to the appointment of an individual to fill a Council vacancy, other than those relating to qualifications. In order to be considered for appointment, individuals must meet the qualifications as outlined in the Municipal Elections Act, and listed below:

- i. Reside in or be the owner/tenant of land in the municipality, or spouse
- ii. Canadian Citizen
- iii. At least 18 years of age
- iv. Not be prohibited from voting under section 17(3) of the Municipal Elections Act or otherwise by law

Council declared the Council seat to be vacant at the September 17, 2024 Special Council Meeting. In accordance with the Municipal Act, if Council directs that the vacancy will be filled by appointment, the seat must be filled by November 16, 2024.

Option #2A: Appointment of a Candidate from the 2022 Municipal Election to Fill the Vacancy

Option #2A has been used in the past to appoint the next-place finisher in the most recent municipal election. Should Council opt to consider the appointment of the next-place finisher or another candidate from the 2022 election, the Town Clerk would seek written confirmation and qualification and determine if the individual is interested in accepting the appointment. Option #2A could result in an Oath of Office being administered by the new Councillor toward the end of October 2024.

Option #2B: Appointment by Call for Applications

Option #2B approves an appointment process which would permit interested, eligible persons to submit an application for appointment to Council. This open call for applications would be advertised, and would include a process through an application, declaration of qualifications and a recommended procedure to include an interview/presentation to Council in an open Council Meeting. This format is based on practices in other Ontario municipalities. Staff will provide Council with a Vacancy Appointment Procedure at the next Council Meeting for approval if Option #2B is selected.

Option #2C: Direct Appointment by Council

Option #2C approves an appointment process where Council appoints an eligible individual without an application process and without referencing the most recent election results.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

2. Good Governance

Priority

4.2 Customer Experience

Action

4.1 a) Streamline Processes

Pillar

4. Optimize Organizational Excellence

Priority

4.3 Culture & Workforce

Action

4.2 a) Customer Experience

7. OPTIONS

- 7.1 Option #1: Pass a By-law Requiring a By-Election be Held to Fill the Council Vacancy
- 7.2 Option #2A: Appointment of a Candidate from the 2022 Municipal Election to Fill the Vacancy
- 7.3 Option #2B: Appointment by Call for Applications
- 7.4 Option #2C: Direct Appointment by Council

8. FINANCIAL IMPLICATIONS

There will be significant costs to fill the vacant Council seat if Council directs that a by-election be held to fill the vacancy. The existing funds in the election budget would not be sufficient to cover the 2026 election in addition to a by-election.

9. ENVIRONMENTAL IMPLICATIONS

N/A

10. COMMUNICATIONS

The strategy for communication will be directly related to the decision of Council in regards to the options presented in this report.

11. CONCLUSION

Staff recommends that Council approve one of the Option 2 variants.

12. PREVIOUS REPORTS

Report CAO-24-038 Declaration of Vacancy in the Office of a Member of Council – Nick Ruller

Report CS-20-015 Declaration of Council Vacancy

13. APPENDICES

- Appendix I – [2022 Voters' Guide – Ontario Municipal Council and School Board Elections](#)

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2022 Voters' Guide - Ontario municipal council and school board elections

2022 Voters' Guide - Ontario municipal council and school board elections

This guide provides information to voters for the 2022 municipal council and school board elections. The information also applies to any by-elections that may be held during the 2022-2026 council and school board term.

This guide is not meant to replace provincial legislation. It provides general information about the rules contained in the [Municipal Elections Act, 1996](#) and other legislation and regulations, such as:

- [Municipal Act, 2001](#)
- [City of Toronto Act, 2006](#)
- [Education Act](#)

General information

Every four years, voters across Ontario elect municipal councillors and school board trustees.

The Province of Ontario sets out common rules that all voters and candidates must follow. However, municipalities are responsible for conducting elections to their council and for conducting the election of school trustees to Ontario's school boards. This guide contains information about the rules that are the same for all municipal elections, such as who is eligible to vote.

Municipal clerk

Every municipality has a municipal clerk who is in charge of running the election. [Contact your municipal clerk or the municipality via its municipal website](#) if you have questions about the election, such as:

- how or where to vote
- how to apply for election jobs
- whether or not you are eligible to vote in the municipality

If your municipality does not have a website you could visit or contact your municipal office for more information.

Public health and safety at the voting place

The municipal clerk is responsible for setting up and running the voting places used in a municipal election. The clerk must follow any provincial or local public health measures that are in effect. They may also put in place additional procedures that they consider necessary for

conducting the election. If you have questions about public health and safety at the polling place, you should [contact your municipal clerk](#).

Emergency declaration by the clerk

If the municipal clerk believes that circumstances have arisen that prevent the election from being conducted appropriately, they may declare an emergency. This declaration is specific to the election and separate from an emergency that may be declared by the municipality or the province.

Once the clerk has declared an emergency, they can decide what arrangements to make to allow the election to proceed appropriately. The arrangements that the clerk makes will depend on the nature of the emergency.

If your municipal clerk has declared an emergency in relation to an election or by-election in your municipality, you should contact the clerk for information about the arrangements that they have put in place and how those arrangements may affect voting and campaigning.

Accessibility

Municipal clerks must keep in mind the needs of all voters when they are planning and running the election. The clerk must also ensure that voting places are accessible.

The municipal clerk must prepare a plan for identifying, removing and preventing barriers that affect persons with disabilities. This plan must be available to the public before voting day.

The municipal clerk must also issue a public report on their accessibility plan within 90 days after voting day.

Contact us

If you have additional questions or would like to give feedback on this Guide, please contact us at mea.info@ontario.ca.

You can also contact your regional [Municipal Services Office at the Ministry of Municipal Affairs and Housing](#).

Table of contents

Eligibility to vote	1
How to vote in your municipality.....	5
Voters' list and identification	7
Questions on the ballot	9
Supporting a candidate's campaign	10
After the election	11
Contributions to Candidates and Third Party Advertisers	13
Enforcement and penalties	15
By-elections	17
Acceptable documents for voter identification.....	19
Forms referred to in this Guide	21

Eligibility to vote

Municipal council election

You are eligible to vote in the election for municipal council if you meet all of the following requirements:

- you are a Canadian citizen
- you are aged 18 or older
- you qualify to vote in the municipality

There are three ways that you can qualify to vote in a municipality:

1. As a **resident elector** if you live in the municipality. You may own, rent, live in shared accommodation where you do not pay rent or live in the municipality but do not have a fixed address. Being a resident elector is the most common type of eligibility.
2. As a **non-resident elector** if you own or rent property in a municipality, but it's not the one where you live. You can be a resident elector in only one municipality. However, you can be a non-resident elector in any other municipality (or municipalities) where you own or rent property.
3. As the **spouse of a non-resident elector** if your spouse owns or rents property in the municipality or municipalities other than the one where you live.

Neither you nor your spouse qualify as a non-resident elector if you do not personally own or rent the property in the municipality. For example, if the property is owned by your business or your cottage is owned by a trust, you would not qualify as a non-resident elector.

If you are not certain whether you qualify as a non-resident elector you should check with the [municipal clerk](#). Under the [Municipal Elections Act, 1996](#), municipal clerks are responsible for conducting elections, and must be satisfied that a person is eligible to vote before adding their name to the voters' list. Municipal clerks may seek legal advice if they are not certain of a person's eligibility to vote.

Students

There is a special rule for students who may be living away from home while they attend school. If you are a student and consider your "home" to be the place where you live when you are not attending school (that is, you plan on returning there), then you are eligible to vote in both your "home" municipality and in the municipality where you live while attending school.

Voting in more than one municipality

If you qualify to vote in more than one municipality, you can vote in all of those municipal elections. For example, if you qualify as a resident elector in one municipality, and a non-resident elector in three other municipalities, you can vote in all four of those municipal elections.

The exception to this rule is if two or more of the municipalities are lower-tier municipalities in the same region and voters are electing candidates to the regional council. In that case, you can vote for a regional council office only once.

Examples of voting once within the same region

In Durham Region, electors are eligible to vote only once for Durham regional chair, even if they are eligible to vote in more than one of the lower tier municipalities that make up the region. Once they have cast a vote for regional chair, electors must leave that part of the ballot blank in any of the other lower tier municipalities where they vote.

In Niagara Region, electors vote for regional councillors who do not sit on any local municipal council. An elector who qualifies to vote in two or more municipalities in Niagara Region can vote for regional councillor in only one municipality. If they vote in a second municipality, they must leave the regional councillor portion of the ballot blank.

Wards

If your municipality has wards, you must vote in the ward where you live. If you are also the owner or tenant of a property in another ward, you are not permitted to vote in that ward instead.

If you are a non-resident elector and you own or rent properties in more than one ward in the municipality, you must choose one ward to vote in. Make sure that you are on the voters' list for that qualifying address.

School board elections

School board elections are held at the same time as municipal elections. You are permitted to vote in the same school board election only once.

You are eligible to vote in the election for a school board if you meet all of the following requirements:

- you are a Canadian citizen
- you are aged 18 or older
- you qualify to vote for that particular school board

School boards can cover large geographic areas that may include several municipalities. School boards are responsible for establishing the geographic areas within the board that one or more trustee positions will be elected to represent.

If you are a resident elector in a municipality, you are eligible to vote for the school trustee(s) that represents the geographic area of the board where you live.

If you live in an unorganized area (instead of a municipality), you may qualify to vote for a school board that has jurisdiction over the unorganized area.

Voting in more than one school board election

You may be eligible to vote in other school board elections in addition to the one where you live.

For example, if you (or your spouse) own or rent residential property in a municipality or an unorganized area different than where you live, you are eligible to vote for a school trustee in this municipality or unorganized area if the trustee sits on a different school board.

Your property must be residential in order for you to qualify to vote. If you (or your spouse) own or rent commercial property in a municipality or unorganized area different than where you live, you are not eligible to vote for school trustee.

Choosing a school board

There are four different kinds of school boards in Ontario:

1. English-language public school board
2. English-language separate school board
3. French-language public school board
4. French-language separate school board

No matter which school your children go to, you are automatically eligible to vote for the English-language public school board unless you take steps to change and become a supporter of a different kind of board.

The Municipal Property Assessment Corporation (MPAC) keeps the provincial record of school support. If you want to change your school support you must [contact MPAC](#).

Information about how to change your school support can be found on [MPAC's website](#).

You can also contact the school board that you wish to vote for to get information about changing your school support.

If you want to vote for an English-language separate school board you must meet both of the following requirements:

1. you must be a Roman Catholic
2. you or your spouse must be an English-language separate school board supporter

If you want to vote for a French-language public school board you must meet both of the following requirements:

1. you must be a French-language rights holder
2. you or your spouse must be a French-language public school board supporter

If you want to vote for a French-language separate school board you must meet all of the following requirements:

1. you must be a Roman Catholic
2. you must be a French-language rights holder
3. you or your spouse must be a French-language separate school board supporter

French-language rights holder is defined in the *Education Act*, and refers to the right of citizens whose first language is French to receive educational instruction in French.

More information about [French-language education](#) is available from the Ministry of Education..

If you voted for a French-language board or an English-language separate board in the last election and you wish to change and vote for an English-language public board in the current election, you must contact MPAC **before voting day** to change your school support.

Note: You cannot change your school support when you go to vote on voting day.

How to vote in your municipality

Taking time off work to vote

You are entitled to three hours in which to vote on voting day. This does not mean you can take three hours off work. It means you're allowed to be absent to give yourself three hours of voting time.

Typically this is at the start or end of your working hours. For example, voting hours are normally from 10 a.m. to 8 p.m. If your working hours are from 10 a.m. to 6 p.m., you are entitled to leave one hour early so that you would have from 5 p.m. to 8 p.m. to vote.

Your employer may decide when it would be most convenient for you to be absent in order to vote. For example, if you work from noon to 6 p.m., your employer may decide that you should come in at 1 p.m., rather than leave work at 5 p.m.

Voting from your home

Your municipality may provide opportunities for you to vote without having to go to a voting place:

- municipalities may offer voting options such as vote by mail or vote by internet
- municipalities are required to provide a voting place in certain retirement homes and long-term care facilities

Contact your clerk for more information about how you can vote in your municipality.

Appointing a voting proxy

If, for any reason, you will be unable to personally cast your ballot, you may appoint someone to go to the voting place and cast a ballot on your behalf. This person is called your voting proxy.

Note: Voting by proxy may not be available if your municipality offers voting options such as vote by mail, telephone or internet.

To appoint a voting proxy, you must fill out two copies of the [Appointment for Voting Proxy Form \(Form 3\)](#) and give the copies to the person that you are appointing as your proxy.

You must know who you want to appoint as your proxy when you fill out and sign the form. The person you want to appoint must be eligible to vote in the election, and should be someone you trust to mark the ballot in the way you have instructed them to.

You can appoint a proxy after the nominations have been certified. In most municipalities this will be done by 4 p.m. on August 22, 2022. Contact your clerk to find out the deadline for appointing a voting proxy.

Being a voting proxy

If someone has appointed you as their voting proxy you must take the completed forms to the municipal clerk to get them certified. Once the forms have been certified, you may cast a vote on behalf of the person who appointed you.

If you are appointed as the proxy for one family member you may also be appointed as the proxy for additional family members.

Family member refers to a spouse, sibling, parent, child, grandparent or grandchild. There is no limit to the number of times you may be appointed, but it must only be for family members. You cannot be appointed as a proxy for a non-family member and a family member at the same time.

If you are appointed as the proxy for a person who is not a family member, you can act as the proxy for this one person only. You cannot be a proxy for anyone else.

Power of attorney or executors

The only way to vote on someone else's behalf is to be appointed as their voting proxy.

You cannot vote on someone's behalf if you have legal or medical power of attorney or are acting as a person's executor or in any other representative capacity.

Voters' list and identification

Your name must be on the voters' list in order for you to cast a ballot.

The voters' list for each municipal election is prepared from data kept by the Municipal Property Assessment Corporation (MPAC).

Adding your name to the voters' list

You can check to see if MPAC has your information in its database at www.voterlookup.ca. You can also call MPAC at [1-866-296-MPAC \(6722\)](tel:1-866-296-MPAC) or [TTY: 1-877-889-MPAC \(6722\)](tel:1-877-889-MPAC).

The voters' list becomes official on September 1.

After September 1, you must apply to your municipal clerk if you want to add your name to the list or correct your information. You have until the close of voting on October 24 to apply for any changes. If you want to change your school support, you must contact MPAC.

If you are applying to add your name to the voters' list, you will be asked to provide proof that you are eligible to vote.

Beginning January 1, 2024, the Chief Electoral Officer and Elections Ontario will be responsible for managing a single registry of electors for both provincial and municipal elections.

Removing a name from the voters' list

The voters' list is a public document. If you do not want your name to appear on the voters' list you can apply to the clerk to have your name removed. If you remove your name from the list, you will not be able to vote.

You can also apply to the clerk to remove the name of someone who is deceased. You cannot ask for someone else's name to be removed from the list for any other reason.

Showing identification before you vote in person

When you arrive to vote in person you must show identification to prove that you are the person whose name appears on the voters' list. The identification must show your name and address. Photo identification is not required.

Examples of identification include:

- Ontario driver's licence
- Ontario health card (if your name and address are printed on the card)
- mortgage, lease or rental agreement
- insurance policy

- credit card statement
- bill for hydro, water, gas, telephone, internet

A Canadian passport is not an acceptable identification document because you write your address inside your passport yourself.

See the [full list of acceptable documents](#).

If your name is on the voters' list and you do not have identification, you may fill out and sign a [Declaration of Identity \(Form 9\)](#) that you are the person whose name appears on the list.

Questions on the ballot

A municipal council may pass a bylaw to put a question on the ballot.

There are conditions on the kind of questions that may be asked:

- it must be about a matter that the municipality has authority for, and that the municipality can implement
- it can't be a matter of Provincial interest
- the wording of the question must be clear, concise and neutral
- the possible answers to the question must be "yes" and "no"
- multiple choice or multi-part questions are not permitted

If council wants to put a question on the ballot for the 2022 election it must pass a bylaw by March 1, 2022.

Any person may appeal the wording of the question to the Chief Electoral Officer of Elections Ontario. This appeal must be filed with the municipal clerk within 20 days of the bylaw being passed.

Members of the public cannot make a council put a question on the ballot.

The Minister of Municipal Affairs and Housing may also place a question on the ballot. The question may be about any matter.

The results of a question on the ballot

If more than 50% of the eligible voters in a municipality vote on the question, the result is binding on the municipal council. This means:

- if "yes" receives more than 50% of the votes, the municipality must implement the results of the question in a timely manner
- if "no" receives more than 50% of the votes, the municipality cannot implement the matter in question until four years have passed since voting day

If less than 50% of the eligible voters in the municipality vote on the question, the results are not binding. Council may consider the results, but it is not required to act or not act on whatever the question was about.

The results of a minister's question can provide advice to the minister or to the government, but the results are not binding.

Supporting a candidate's campaign

Nomination endorsement signatures

If your municipality has more than 4,000 electors, candidates running for municipal council must submit 25 original endorsement signatures when they file their nomination.

In order to endorse a candidate, you must be eligible to vote on the day that you sign the endorsement. For example, a person who is 17 cannot sign an endorsement even if they will be 18 by voting day and able to vote in the election.

Collection of signatures should be undertaken safely by following guidance related to and in compliance with all applicable law and emergency orders, as well as any [guidance and safety standards established by the province for COVID-19](#). These measures are intended to keep Ontarians safe.

You can endorse as many people as you like – there is no limit on the number of nominations you can endorse, and you can endorse more than one person running for the same office.

Candidates must use the [Endorsement of Nomination Form \(Form 2\)](#) to collect endorsement signatures.

When you provide your endorsement signature you must also provide your complete address including your postal code.

The Endorsement of Nomination form is a public document. You cannot revoke your endorsement of a candidate after the document has been filed with the clerk.

Signs

The *Municipal Elections Act, 1996* does not regulate the size or placement of signs. Your municipality may have rules regarding where signs may be placed and when they may be displayed. Contact your municipal clerk for more information.

Inside a voting place

Campaign materials, including pamphlets, signs, or buttons supporting or opposing a candidate are not permitted inside a voting place.

You are not permitted to show your marked ballot to anyone. This includes taking a picture or video of your marked ballot. The exception to this rule is if someone in the voting place is assisting you to mark your ballot.

After the election

Election results

Many municipalities will report unofficial voting results on the night of the election.

The results of a municipal election are not official until the clerk makes the declaration. This usually happens a few days after voting day, after the clerk has had time to check the results and make sure that all of the votes have been counted properly.

Recounts

The *Municipal Elections Act, 1996* requires an automatic recount only if the votes are tied.

Your municipal council or school board may have a policy that sets out other reasons for an automatic recount.

If you feel there should be a recount, and the rules for an automatic recount don't apply, you can ask the municipal council or school board to order a recount. Any recounts must be ordered within 30 days after the clerk has declared the results of the election.

If you are an eligible voter, you can also apply to the Superior Court of Justice to ask a judge to order a recount.

Recounts must be done the same way that the votes were originally counted, unless the recount is ordered by the court. For example, if the votes were counted by a vote tabulator, they may not be counted by hand during the recount.

If a recount is ordered by the court, the judge may order that the votes be counted in a different manner if the judge believes that the way the votes were counted the first time was an issue.

Compliance audits

Each municipality and school board must appoint a compliance audit committee.

Every candidate and every third party advertiser must file a financial statement which reports their contributions and expenses.

If you are an eligible voter and you believe, on reasonable grounds, that a candidate or a third party advertiser has contravened the election finance rules, you may apply for a compliance audit of the candidate's or the third party advertiser's finances.

The application must be in writing and must set out the reasons why you believe that the candidate or third party advertiser has contravened the rules.

An application for a compliance audit must be submitted to the municipal clerk within 90 days of the filing deadline. The deadline for candidates and third party advertisers to file their financial statements is the last Friday in March following the election (March 31, 2023).

The deadline for a candidate to file a supplementary financial statement is the last Friday in September (September 29, 2023). If a candidate files a supplementary financial statement, an application for a compliance audit may be submitted within 90 days of the supplementary filing deadline.

Contributions to Candidates and Third Party Advertisers

General information

A third party advertisement is an ad that supports, promotes or opposes a candidate, or supports, promotes or opposes a “yes” or “no” answer to a question on the ballot.

The meaning of “third party” in this context is a person or entity who is not a candidate. Eligible individuals, corporations and trade unions can register to be third party advertisers. Third party advertising is separate from any candidate’s campaign, and must be done independently from a candidate.

If you want to spend money on third party advertisements during the election you must register first with the municipal clerk, and must file a financial statement.

For more information on third party advertising, please see the [Third Party Advertisers’ Guide](#).

Who can make contributions

Any person who is a resident of Ontario can make a contribution to a candidate’s campaign or contribute to a third party advertiser to help fund their advertisements.

Corporations carrying on business in Ontario, and trade unions that hold bargaining rights for employees in Ontario, are not permitted to make contributions to candidates in municipal elections in Ontario. However, they may contribute to third party advertisers.

Groups such as neighbourhood associations, clubs or professional associations, such as fire or police associations, are not eligible to make financial contributions to candidates or third party advertisers. Members may contribute individually.

Contribution limit

You may contribute a maximum of \$1,200 to a single candidate (\$2,500 to a mayoral candidate in the City of Toronto). You may also contribute a maximum of \$1,200 to a third party advertiser. These amounts include the value of any goods or services donated to the campaign. You may not contribute more than \$5,000 in total to candidates running for offices on the same council or school board, or to third party advertisers who are registered in the same municipality.

If you buy a ticket to a candidate’s or third party advertiser’s fundraiser, the cost of the ticket is a contribution.

Other rules regarding contributions

Any contribution of money must come directly from the contributor. You are not permitted to pool contributions from others and then forward that money to a candidate’s campaign or to a third

party advertiser. If a contribution is made from a joint account, it must be clear which person is making the contribution.

Contributions greater than \$25 may not be made in cash. All contributions above \$25 must be made by cheque, money order, or by a method that clearly shows where the funds came from.

If the total value of the contributions you've made to a candidate or to a third party advertiser is greater than \$100, your name and address will be recorded in the candidate's or third party advertiser's financial statement. The financial statement is a public document.

Contributions to municipal council and school board candidates, and third party advertisers are not tax deductible. Your municipality may have a contribution rebate program in place if you contribute to a candidate. However, municipal contribution rebate programs do not apply to contributions to third party advertisers. You should contact your municipal clerk for more information.

Candidates and third party advertisers are not permitted to return unused contributions to contributors. If the candidate or third party advertiser has a surplus at the end of their campaign, they must turn that money over to the municipality.

Review of contributions

Contributions that are reported on candidates' or third party advertisers' financial statements will be reviewed by the municipal clerk to check that they comply with the rules.

If a candidate's financial statements show that a contributor gave more than \$1,200 to a candidate (\$2,500 to a mayoral candidate in Toronto), or if they show that a contributor gave more than \$5,000 total to candidates running for the same municipality or school board, the clerk will report this to the compliance audit committee.

If the financial statements show that a contributor gave more than \$1,200 to a third party advertiser, or if they show that a contributor gave more than \$5,000 total to third party advertisers registered in the same municipality, the clerk will also report this to the compliance audit committee.

The compliance audit committee will meet and determine whether the municipality (or school board) should begin court proceedings against the contributor.

If you want to contribute to a candidate or third party advertiser, you should make sure that you know what the contribution limits are and keep track of your donations to ensure that you don't end up giving more than is permitted.

Enforcement and penalties

Enforcement of the [Municipal Elections Act, 1996](#) is done through the courts. The Ministry of Municipal Affairs and Housing does not have a role in investigating elections or in determining penalties.

If you are an eligible voter and you feel that the election was not valid (either the election of a specific candidate or candidates, or the entire election), you can apply to the Superior Court of Justice to determine whether the election was valid. The application must be made within 90 days after voting day.

Any person can begin court proceedings against a person, trade union or corporation who they believe committed an offence in relation to an election. Only the court can decide whether the person, trade union or corporation is guilty of committing an offence, and only the court may determine the penalty.

It is an offence to do, or attempt to do, any of the following:

- vote if you are not an eligible elector
- vote more times than you are permitted to vote
- vote in a voting place where you are not entitled to vote
- persuade a person who is not an eligible elector to vote
- cast a vote yourself after you have appointed a proxy
- vote as a proxy if the person who appointed you has cancelled the appointment, become ineligible to vote or died
- give a ballot to someone if you are not authorized to do so
- switch the ballot you were given with a different piece of paper to be placed in the ballot box
- take a ballot away from the voting place
- handle a ballot box or ballots if you are not authorized to do so
- bribe a person (using money, valuables, or offers of office or employment) to vote a certain way or to not vote at all, or give someone else money so that they can bribe the person
- accept a bribe to vote a certain way or to not vote at all
- bribe a person to become a candidate, decide to not become a candidate, or withdraw from being a candidate

It is also an offence to break the rules relating to campaign finance – for example, to make a contribution without being eligible to do so, to contribute more than the limit or to contribute money that is not yours.

General penalties

If a person is convicted of committing an offence, they may be subject to the following penalties:

- a fine of up to \$25,000
- ineligibility to vote or run in the next regular election
- up to six months in prison

If a corporation or trade union is convicted of committing an offence, they may be subject to a fine of up to \$50,000.

These penalties would be determined by the court.

By-elections

A by-election is an election that happens during the council or school board term. It may occur because:

- a seat becomes vacant on a council or school board (by-election for office)
- the municipality wants to put a question to voters before the next regular election (by-election for a question on the ballot)

Vacancies

If a member of a municipal council or school board resigns, loses their eligibility (for example, by moving away) or dies during the term, their seat becomes vacant.

A vacancy on a council must be filled unless the vacancy occurs within 90 days before voting day in the next regular election. A vacancy on a school board must be filled unless the vacancy occurs within one month before voting day in the next regular election.

A vacant seat can be filled either by appointing someone who is qualified or by holding a by-election.

Appointment

If a council or school board decides to fill a vacancy by appointment, they must appoint a person who is eligible to serve on the council or school board and who is willing to accept the appointment.

The legislation does not set out a process for making the appointment. It is up to the council or school board to determine how they will decide who to appoint. Different approaches include:

- appointing the candidate who came second in the regular election
- inviting interested persons to apply for the position
- offering the appointment to a member of the community

Sometimes councils or school boards want to put additional restrictions on appointees, such as requiring that an appointee agree not to run in the next regular election. While a council or school board may set this as a condition for appointment, there is nothing in provincial legislation that would prevent someone who was appointed from running in the next election.

By-election for an office

Once the council or school board has decided to hold a by-election, the municipal clerk is in charge of conducting it. The council or school board does not decide when the last day to file nominations or voting day will be. These dates are determined by the clerk.

Nominations open when the council has passed the bylaw ordering the by-election, or when the school board has passed a resolution ordering the by-election and sent it to the clerk who will conduct it. Nominations close at 2 p.m. on nomination day.

The clerk must set nomination day within 60 days after the by-election was ordered by council, the board or the court.

Voting day will be 45 days after nomination day.

By-election for a question on the ballot

If a council or board wants to put a question on the ballot, they do not have to wait until the next regular election to do so. They could hold a by-election specifically to allow electors to vote on the question.

Voting day for a by-election to put a question on the ballot must be at least 180 days after the bylaw or resolution to hold the by-election has been passed.

Acceptable documents for voter identification

You must present one of the following documents showing your name and address:

- Ontario driver's licence
- Ontario Health Card (photo card)
- Ontario Photo Card
- Ontario motor vehicle permit (vehicle portion)
- cancelled personalized cheque
- mortgage statement, lease or rental agreement relating to property in Ontario
- insurance policy or insurance statement
- loan agreement or other financial agreement with a financial institution
- document issued or certified by a court in Ontario
- any other document from the government of Canada, Ontario or a municipality in Ontario or from an agency or such a government
- any document from a Band Council in Ontario established under the *Indian Act* (Canada)
- income tax assessment notice
- child tax benefit statement
- statement of employment insurance benefits paid T4E
- statement of old age security T4A (OAS)
- statement of Canada Pension Plan benefits T4A (P)
- Canada Pension Plan statement of contributions
- statement of direct deposit for Ontario Works
- statement of direct deposit for Ontario Disability Support Program
- Workplace Safety and Insurance Board statement of benefits T5007
- property tax assessment
- credit card statement, bank account statement, or RRSP, RRIF, RHOSP or T5 statement

- CNIB Card or a card from another registered charitable organization that provides services to persons with disabilities
- hospital card or record
- document showing campus residence, issued by the office or officials responsible for student residence at a post-secondary institution
- document showing residence at a long-term care home under the *Long-Term Care Homes Act, 2007*, issued by the Administrator for the home
- utility bill for hydro, water, gas, telephone or cable TV or a bill from a public utilities commission
- cheque stub, T4 statement or pay receipt issued by an employer
- transcript or report card from a post-secondary school

Forms referred to in this Guide

You can get copies of forms from your municipal clerk, or you can download them from the [Government of Ontario's Central Form Repository](#).

- [Endorsement of Nomination \(Form 2\)](#)
- [Appointment for Voting Proxy \(Form 3\)](#)
- [Declaration of Identity \(Form 9\)](#)

THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 2024-062

A BY-LAW TO CONFIRM THE PROCEEDINGS AT THE COUNCIL MEETING OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE HELD ON OCTOBER 16, 2024

WHEREAS the Council of The Corporation of the Town of Niagara-On-The-Lake (the “**Municipality**”) passed various motions at its meeting held on October 16, 2024;

WHEREAS pursuant to the provisions of Section 5 of the *Municipal Act, 2001*, as amended, the powers of a municipality shall be exercised by its council by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS it is deemed expedient that the actions of the Council of the Municipality at its meeting held on October 16, 2024, be confirmed, and adopted by by-law.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE ENACTS AS FOLLOWS:

1. That the actions of the Council of the Municipality in respect of each motion, resolution, declaration and other action passed, taken or adopted at the meeting held on October 16, 2024, are hereby adopted and confirmed as if the same were expressly included in this By-law, including, but not limited to, the motions of the Council of the Municipality adopted at that meeting which are outlined in the October 16, 2024, Council Minutes.
2. That the Lord Mayor and the proper officials of the Municipality are hereby authorized and directed to do all things necessary, including the execution of the necessary documents, to give effect to the actions of the Council of the Municipality referred to in section 1 of this By-law.
3. That the provisions of this By-law with respect to the Council meetings referred to in section 1 of this By-law shall be deemed to have been effective immediately following the October 16, 2024 meeting of the Council of the Municipality in respect of the motions of the Council of the Municipality as outlined in the October 16, 2024, Council Minutes.
4. That this By-law shall come into force and take effect upon the final passing hereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 16TH DAY OF OCTOBER 2024

LORD MAYOR GARY ZALEPA

TOWN CLERK GRANT BIVOL