



Policy Manual

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| Section: | Office of the Chief Administrative Officer |
| Subject: | Municipal Election Proxy Procedures Policy |
| Policy Number: | 043 |
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| Approved By: | Resolution No. R21-xx-xxx |
| Prepared By: | Town Solicitor, Legal and Legislative Services/Clerk |

1.0 Objective

To establish, over and above the legislative requirements of Section 44 of the Municipal Elections Act, enhanced Town of Essex procedures for issuing and certifying voting proxy applications in a municipal election or by-election. The objective is also to ensure that the election services provided by the Town of Essex respond to and meet the needs of the community.

2.0 Application and Purpose

This Policy is to create a framework of responsibilities and will apply where applicable to all election officials, members of the public, candidates, registered third party advertisers and electors during Town of Essex municipal elections or by-elections conducted by the Clerk.

Legislative Reference and Authority

Proxy voting is the procedure by which a elector qualified to vote may appoint another person who is a elector qualified to vote in the same Municipality to vote on their behalf in a Municipal election. The rules and qualifications surrounding "Proxy Voting " are set out in Section 44 of the Municipal Elections Act, S.O. 1996, c. 32

(hereafter: “the Act” or “MEA”) . For reference purposes this section has been excerpted from the Act and is set out in Schedule A to this Policy. The current prescribed form to legally appoint someone to be their voting proxy is *Form 3: Appointment for Voting Proxy (hereinafter “Proxy Application Form”)*, which is a form mandated by the Province (Ministry of Municipal Affairs). For reference purposes, a current copy of this Form 3 is attached as Schedule B to this Policy.

Section 44 of the Act and Proxy Application Form set out the minimum requirements for the appointment of a voting proxy.

This Policy prescribes additional voting proxy requirements that will apply to a Town of Essex Municipal Election or By-Election. The authority for the ability to prescribe additional requirements is set out in Section 12 of the MEA as follows:

Powers of clerk

12 (1) A clerk who is responsible for conducting an election may provide for any matter or procedure that,

(a) is not otherwise provided for in an Act or regulation; and

(b) in the clerk’s opinion, is necessary or desirable for conducting the election. 1996, c. 32, Sched., s. 12 (1).

3.0 Definitions

Clerk-means the Clerk of the Municipality as defined under the Municipal Act and may include their designates thereof, who is responsible for conducting municipal elections under authority of the MEA.

Election Official-means the Clerk or other person(s) appointed by the Clerk to carry out election duties under the authority of the MEA.

Elector qualified to vote- means a person who, on the day of the election, is 18 years of age or older, a Canadian citizen; and either a resident of the municipality or a

property owner or tenant or the spouse or same sex partner of an owner or tenant in the municipality during a specified time just before the election.

Relative- mean the parent, grandparent, child, grandchild, sibling or spouse of the elector appointed.

Voters List-means the Preliminary List of Electors eligible to vote, as corrected by the Clerk under the provisions of Section 22 of the MEA.

Voting Day-means the final day on which the final vote is to be in an election such date being established by the MEA and its regulations.

Voting Place/Location-means the locations designated by the Clerk to accommodate Voting by electors qualified to vote during the voting period (s).

Proof of identification- means proof of identification and residence as prescribed in O. Reg. 304/13 of the Act.

Essex Municipal Building/Clerks Office – means the Town of Essex Town Hall location at 33 Talbot Street South, Essex Ontario, N8M 1A8

4.0 General

- (1) Any elector qualified to vote in the Town of Essex may appoint another elector qualified to vote as their voting proxy.
- (2) The appointment of a voting proxy can only be made after the later of the final date for withdrawal of candidate nominations and the date all candidate nominations have been certified by the Town Clerk, such dates being set by the MEA and its regulations (the “Appointment Commencement Date”).
- (3) An elector may act as a proxy for:
 - (a) one other elector qualified to vote who is not a relative; or
 - (b) one or more electors qualified to vote who are relatives, using separate

proxy Application Forms for each. Relatives are currently defined under the MEA to mean the parent, grandparent, child, grandchild, sibling or spouse of the elector appointed.

- (4) Only an elector qualified to vote who wishes to appoint a voting proxy may request and obtain a Proxy Application Form that is to be marked as being issued from the Town of Essex Clerks office or from such other designated election officials appointed by the Clerk (hereinafter collectively the "Clerks Office").
- (5) Only Proxy Application Forms marked and issued by the Clerks Office will be eligible for certification by the Clerk. Any Proxy Applications forms submitted for certification that have not been requested through the Clerks Office and not marked as issued by the Clerks Office will not be accepted for certification.
- (6) Candidates will be instructed to refer any Proxy Application Form requests to the Clerks Office. Proxy Application Forms marked and issued by the Clerks Office will not be provided to candidates, although candidates may request a proxy or act as a proxy in their own right.
- (7) On the date (s) of any Advance Vote (s) Proxy Application Forms can only be presented for certification at the Essex Municipal Building Clerks Office which will be open for such purposes between the hours of 12 p.m. to 5 p.m. Proxy Application Forms that are presented for certification at the Voting Place location will not be accepted. Only certified Proxy Application Form forms will be received by election officials at the Voting Place location(s).
- (8) Copies of the Proxy Application Forms are public documents, which may be inspected by any person upon request to the Clerks Office.

5.0 Issuing a Proxy Application

- (1) An elector who wishes to appoint a voting proxy may upon or after the Appointment Commencement Date:
 - (a) Contact the Town of Essex Clerks office to request a Proxy Application Form 3 to be marked and issued by the Clerks Office and mailed/emailed; or
 - (b) Request a Proxy Application Form be marked and issued in person at the Essex Municipal Building Clerks Office or at such other location that may be designated by the Clerks Office (other than the Voting Place location) during the following times:
 - i. 8:30 a.m. to 4:30 p.m., Monday to Friday, excluding statutory holidays up to but not including Voting Day, or
 - ii. 12:00 p.m. to 5:00 p.m. on the day of an Advance Vote.
- (2) Prior to issuing a Form 3 proxy application, the Clerk or designated election official shall:
 - (a) check the voters' list to determine whether the elector making the appointment is on the list. If the voter is not on this list, an amendment application to be added to the Voters list if applicable must first be made and completed;
 - (b) Complete Box A on the Form 3 proxy application;
 - (c) Assign, record and mark a Town of Essex serial number for the proxy application. This serial number will be entered into Town of Essex *Register of Proxy Appointments*;
 - (d) give or mail/email to the elector the marked and issued proxy application and any applicable forms.

- (e) Please note that for any Proxy Application Form requests, the Clerks Office reserves the sole discretion and right to require any such further information as it may reasonably require in order to confirm the Proxy Application Form Request by the elector making appointment.

6.0 Completing a Proxy Application

- (1) The elector making the appointment shall then complete in full Box B and Box C of the marked and issued Proxy Application Form. The electors must identify themselves, identify the appointed voting proxy and attest to their relationship, if any.
- (2) The name of the voting proxy to be appointed must be completed at the time the elector making the appointment signs the statement in Box C of the Proxy Application Form . It is unlawful to sign a proxy application without first completing Box B to indicate the Elector to be appointed as the voting proxy.
- (3) The elector making the appointment shall then provide the completed proxy application and an original or photocopy of Proof of their identification to the appointed voting proxy who shall bring the same in person to the Clerk's Office for Certification.

7.0 Certifying a Proxy Application

- (1) The elector who has been appointed as voting proxy shall then present the completed proxy application, an original or photocopy of the identification of the elector who appointed them and an original of their own identification, in person, to the Clerks Office at the Essex Municipal Building or at a location that may be designated by the Clerks Office (other than a Voting Place location (s)) and appear before the Clerk or designated election official for certification during the following times:
 - (a) 8:30 a.m. to 4:30 p.m., Monday to Friday, excluding statutory holidays up to

but not including Voting Day, or

- (b) 12 noon to 5:00 p.m. on any day of an advance vote.
- (c) Under no circumstances can a Proxy Form 3 Application be presented for certification at the Voting Place location (s).

(2) The Clerk or designated election official then shall:

- (a) check the identification of both the elector making the appointment and the voting proxy to verify their names and qualifying addresses and that the identification matches the names and addresses on the proxy application;
- (b) check the voters' list to verify that both the elector making the appointment and the voting proxy are on the list,
- (c) if the elector making the appointment or the appointed voting proxy is not on the voters' list, they will need to firstly be added to the voters' list by completing the application to be added to the voters list.
- (d) complete the ward and voting subdivision numbers for both the elector making the appointment and the voting proxy, where required on the Proxy Form Application;
- (e) have the appointed voting proxy read and sign the declaration on the proxy application;
- (f) date and sign the declaration and stamp it with Commissioner stamp if applicable and/or apply a Town of Essex stamp/seal; and
- (g) give the voting proxy the certified proxy application and instruct them to take the form to the voting place location of the elector making the appointment.

Please note that for any Proxy Application Form certifications, the Clerks Office reserves the sole discretion and right to require any such further information as it

may reasonably require in order to confirm the Proxy Application Form Certification.

8.0 Process at the Voting Place

- (1) The voting proxy will take the certified proxy application to the voting place of the elector making the appointment.
- (2) The designated election official shall ask the voting proxy to present the certified proxy application, along with acceptable identification. The voting proxy is not required to present the identification of the elector making the appointment.
- (3) To be valid, the certified proxy application must be completed, signed by the designated election official and have the Commissioner stamp and Election Services' seal.
- (4) The designated election official shall verify that the voting proxy's identification matches the information on the certified proxy application. If the voting proxy's identification matches, they will be asked to give an oral oath on the proxy application affirming they are the appointed voting proxy, they have been instructed by the elector to vote on their behalf and they are doing so in good faith. They will then be given a ballot and can proceed to vote.
- (5) If the voting proxy's identification does not match or the appointed voting proxy does not present acceptable identification, they will not be issued a ballot.
- (6) If the voting proxy is an eligible elector entitled to vote in their own right at the same voting place as the elector making the appointment, the designated election official will ask the voting proxy to firstly vote in their own right.

SCHEDULE A

Taken from Section 44 of the *Municipal Elections Act*, S.O. 1996, c. 32:

Appointment of voting proxy

44 (1) A person who is entitled to be an elector in a local municipality may appoint another person who is also so entitled as his or her voting proxy, using the prescribed form. 1996, c. 32, Sched., s. 44 (1).

Restrictions

(2) A person shall not,

(a) appoint more than one voting proxy;

(b) act as a voting proxy for more than one other person. 1996, c. 32, Sched., s. 44 (2).

Spouses, etc.

(3) The restriction in clause (2) (b) does not apply if the proxy and the other person are spouses or siblings of each other, parent and child, or grandparent and grandchild. 1996, c. 32, Sched., s. 44 (3); 1999, c. 6, s. 43 (3); 2005, c. 5, s. 46 (3).

Timing

(4) A person shall not appoint a voting proxy for an election until the later of,

(a) the time for the withdrawal of nominations under section 36 has expired for all offices for which the election is being conducted; and

(b) the time when the clerk has certified all persons qualified to be nominated under subsection 35 (2). 2016, c. 15, s. 33.

Same

(4.1) An appointment under subsection (4) does not remain in effect after voting day of the election. 2016, c. 15, s. 33.

Application for clerk's certificate

(5) A person who has been appointed a voting proxy shall,

(a) complete an application in the prescribed form, including a statutory declaration that he or she is the person appointed as a voting proxy; and

(b) present the application and the appointing document to the clerk at the clerk's office, or any place designated by the clerk, in person. 1996, c. 32, Sched., s. 44 (5); 2002, c. 17, Sched. D, s. 15 (2).

Time and place

(6) The application may be presented at any time when the clerk's office or other place designated by the clerk is open; on the day of an advance vote held under section 43, the clerk's office and any other place designated by the clerk shall be open for this purpose from noon to 5 p.m. 2002, c. 17, Sched. D, s. 15 (3).

Certificate

(7) If satisfied, after considering the application, that the person who appointed the voting proxy is entitled to do so and that the person appointed is entitled to act as the other's voting proxy, the clerk shall apply a certificate in the prescribed form to the appointing document. 1996, c. 32, Sched., s. 44 (7).

Production of certified appointing document

(8) A person may vote as a voting proxy only if he or she,

(a) produces to the deputy returning officer the appointing document with the clerk's certificate; and

(b) takes the prescribed oath. 1996, c. 32, Sched., s. 44 (8).

Voting in own right

(9) A person who votes as a voting proxy is also entitled to vote in his or her own right. 1996, c. 32, Sched., s. 44 (9).

Instructions

- Prepare the completed form in duplicate.
- Who may use this form

Any qualified elector may use this form to appoint another person who is a qualified elector in the same municipality to vote on their behalf. The appointment of the voting proxy can only be made after the final opportunity for withdrawal of nominations and after all nominations have been certified.

Under section 44 of the *Municipal Elections Act, 1996*, an elector may act on behalf of one other qualified elector who is not a relative or on behalf of one or more qualified electors who are relatives. In the case where an elector is acting on behalf of a number of qualified electors who are relatives, separate proxy forms are required. A relative means the parent, grandparent, child, grandchild, sibling or spouse of the elector appointed.

Even if an elector is eligible to vote in more than one municipality the elector can only vote as a proxy for one non-relative.

This form is a public record and the copy on file with the clerk may be inspected by any person.

- This form should be completed in the following manner:

STEP 1: Complete Boxes A, B and C

Boxes A, B and C require the elector making the appointment to identify themselves and the individual being appointed to vote on the elector's behalf and to attest to their relationship.

The name of the elector appointed must be filled in at the time the elector making the appointment signs the statement. It is unlawful to sign this proxy form unless Box B is completed.

STEP 2: Present duplicate copies to the clerk or designate

The elector appointed must present both copies of this form in person to the clerk at the clerk's office, (or other location designated by the clerk) during normal office hours, or during the hours of noon to 5 p.m. on any day of an advance vote.

The clerk may require proof of identity of the elector appointed (including citizenship), before certifying the proxy.

STEP 3: Take original form to voting place

After certification, the clerk will return the original copy of the form to the elector appointed to be taken to the voting place to receive the proxy ballot.

STEP 4: Oral Oath

Once at the voting place you will be required to take an oral oath attesting that you are in fact the appointed elector. Once complete you will vote on behalf of the elector whom you were appointed by.

Box A: Elector Making Appointment

| | | | |
|--|------------|--|--|
| Municipality | | For office use (initial after voters' list has been checked) | |
| Ward name or no. (if any) | | Voting subdivision number (if known) | |
| Elector Making Appointment Last Name or Single Name | | Given Name(s) | |
| Full address within this municipality | | | |
| Suite/Unit No. | Street No. | Street Name | |
| Municipality | Province | Postal Code | |

Box B: Elector Appointed

| | | | |
|--|------------|--|--|
| Municipality | | For office use (initial after voters' list has been checked) | |
| Ward name or no. (if any) | | Voting subdivision number (if known) | |
| Elector Appointed | | | |
| Last Name or Single Name | | Given Name(s) | |
| Full address within this municipality | | | |
| Suite/Unit No. | Street No. | Street Name | |
| Municipality | Province | Postal Code | |
| Relationship of Elector Appointed to Elector Making the Appointment (check one only) | | | |
| <input type="checkbox"/> Related (parent, grandparent, child, grandchild, sibling or spouse) | | | |
| <input type="checkbox"/> Not related | | | |

Box C: Statement of Elector Making Appointment

I, the undersigned, a qualified elector in the above municipality, do hereby appoint _____
(person named in Box B), to vote on my behalf and, if related, do attest to their relationship to me.

Signature of the Elector Making Appointment _____ Date (yyyy/mm/dd) _____

Note: It is unlawful to sign this proxy form until Box B is completed.

The name of the elector appointed **must** be filled in at the time the elector making the appointment signs the statement.

Box D: Declaration By Elector Appointed (to be completed in the presence of the clerk or designate at the clerk's office or other designated location)

I, the undersigned, a qualified elector in the above municipality, affirm that I have been appointed to vote in good faith and have been instructed to do so on behalf of the elector who made the appointment and, that I have not been previously appointed to vote on behalf of any other non-related person.

Declared before Clerk or Commissioner

in the _____
on (yyyy/mm/dd) _____

Signature of Clerk or Commissioner, etc.

Signature of Elector Appointed

Box E: Certification by Clerk

I hereby certify that the elector making the appointment is qualified to vote in this municipality and that the elector appointed is a qualified elector in this municipality and is authorized to vote on behalf of the elector making the appointment.

Signature of Clerk or Designate

Date of Certification (yyyy/mm/dd)

Note: Clerk may require proof of identity of elector appointed before certifying proxy. This form is a public record and the copy on file with the clerk may be inspected by any person.

Box F: Oral Oath

I swear or solemnly affirm:

- that I am the elector appointed; and
- that I am voting in good faith on behalf of the elector who made the appointment; and
- I have not been previously appointed to vote on behalf of any other non-related person.