

Returning Officer Duties for Local Advisory Council By-Elections

Here are the parts of the Municipal Act that relate to nominations, polling, returning officers and by-elections. I have included the sections of the Act that I think are most relevant, but I have also linked the Act itself. There are other duties of the Returning Officer in the Act, but for a by-election in an LAC, most of these duties will not be required (e.g. Advanced Poll, Special Ballot etc.). The Act only refers to municipal elections; for the purposes of LAC elections we recommend following the process as closely as is reasonable.

Yukon Municipal Act: http://www.gov.yk.ca/legislation/acts/municipal_c.pdf

DIVISION 15

BY-ELECTIONS

SECTION 15

Election to fill vacancy

146(1) Subject to subsection 209(7), a nomination to fill a vacancy on council shall be held at a time set by council, but no earlier than 30 days or later than 45 days after the vacancy occurs or when the written resignation is submitted to the designated municipal officer.

(2) If at least two-thirds of members of council approve, the nominations to fill a vacancy may begin earlier than the time set by subsection (1).

(3) The election shall be held under this Part and any bylaws and resolutions of the municipality relating to municipal elections, but if there is a poll, the poll shall take place on the third Thursday after the nomination.

(4) If a vacancy occurs after February 1st in the last year of the term of a member of council, the council may hold the vacancy open until the next general election, but this subsection ceases to apply if council is unable to maintain a quorum. S.Y. 2002, c.154, s.146

Commencement of election procedure

56(1) The council shall by bylaw on or before the first Thursday in September in each election year and at other times as required

(a) appoint a returning officer to be responsible for the administration of the election or public vote;

(b) establish the place for making nominations;

(c) establish places that are reasonably accessible to electors who are physically incapacitated at which polls will be held if a poll is required and, subject to section 85, set hours during which polls shall be open;

(d) appoint deputy returning officers as required, or delegate to the returning officer the power to appoint deputy returning officers; and

(e) otherwise arrange for the holding of the election or public vote.

(2) The council may appoint an alternate returning officer. S.Y. 2002, c.154, s.56

Powers of returning officers and deputies

57(1) The returning officer can perform all the duties and powers of a deputy returning officer and if there is no deputy appointed the returning officer shall perform the deputy's duties.

(2) A returning officer or deputy returning officer appointed to attend at a polling place has the power to ask the questions and receive the declarations or oaths authorized by law to be asked of and made by electors. S.Y. 2002, c.154, s.57

Nomination requirements

76(1) No person shall be nominated as a candidate unless they

(a) are qualified to be elected under section 50;
(b) have been nominated in writing by at least 10 electors; and
(c) have delivered or caused to be delivered to the designated municipal officer or returning officer between the time of the nomination notice and 12 o'clock noon on nomination day, a nomination paper in the prescribed form, together with a declaration administered by the returning officer, designated municipal officer, or notary public in the prescribed form.

(2) A nomination paper may be faxed to the returning officer or designated municipal officer. S.Y. 2002, c.154, s.76

Nomination Papers

77(1) A nomination paper shall contain

(a) the name and address of the person being nominated;
(b) a physical address to which documents may be delivered to a person who is nominated;
(c) the written consent of the person being nominated;
(d) a statement and solemn declaration by the person being nominated that they are qualified under paragraph 50(1)(a) and not otherwise disqualified under paragraph 50(1)(b);
(e) a statement in the prescribed form signed by the nominators in which they declare that they are electors and that they nominate the candidate for election to the office;
(f) insofar as is consistent with the principles of the Canadian Charter of Rights and Freedoms and the Human Rights Act, a statement in the prescribed form signed by the person being nominated in which they disclose all their convictions within the preceding 10 years for indictable offences under the Criminal Code (Canada) for which they have not received a pardon.

(2) An elector may sign as many nomination papers as there are candidates to be elected, but each candidate must be nominated by a separate nomination paper.

(3) The returning officer shall, if requested to do so, give a receipt to the person who delivers a nomination paper with the accompanying declaration. S.Y. 2002, c.154, s.77

Proceedings on nomination day

78(1) The returning officer shall be present between the hours of 10:00 a.m. and 12 o'clock noon on nomination day at the place appointed by the council for the holding of nomination proceedings, and shall as soon as practicable after 12 o'clock noon announce the names of all electors who have been nominated as candidates in accordance with the provisions of this Act.

(2) The returning officer shall not permit any speeches or interruptions during the nomination proceedings referred to in subsection (1). S.Y. 2002, c.154, s.78

Election, acclamation, and filling of vacancies

79(1) At the conclusion of nomination proceedings,

(a) if the number of candidates for the vacant offices exceeds the number of vacancies, the returning officer shall proceed to hold a poll under this Act; and

(b) if the number of candidates for the vacant offices equals or is less than the number of vacancies, the returning officer shall declare each candidate elected by acclamation if the time for a challenge under subsection 82(2) has expired and the candidate's nomination has not been challenged.

(2) If there are, on nomination day, fewer persons nominated as candidates for office than there are members to be elected,

(a) an additional six days will be allowed for nominating candidates;

(b) the Minister shall immediately consult the council, and may consult other persons in the community, about who are suitable persons to be nominated or appointed to council and may encourage electors to nominate candidates or to consent to be nominated; and

(c) if after the end of the additional six days not enough persons have been nominated to fill the remaining vacancies or to require an election, the Minister may appoint to council as many electors as are needed.

(3) A person appointed under subsection (2) shall, if they accept office, make every disclosure that is required of a person nominated for election and shall make the prescribed declaration and take the oaths of office and allegiance under the same provisions as if they had been elected. S.Y. 2002, c.154, s.79

DIVISION 7

NOTICE OF POLL

SECTION 7

Notice of poll and hours for the poll to be given

84(1) The notice of the poll issued by the returning officer shall state

(a) the name of each candidate; and

(b) the time and place at which the poll will be open for the purpose of receiving the votes of the electors.

(2) The notice of the poll referred to in subsection (1) shall be published and posted by the returning officer at least seven days before polling day in the same way as section 62 requires for publishing notice and posting copies of the preliminary list of electors.

(3) The polls shall be open from 8:00 a.m. to 8:00 p.m. The council may set extended hours during which one or more polls shall be open, but the extended hours must fall between 7:00 a.m. and 11:00 p.m. S.Y. 2002, c.154, s.84