

**TOWNSHIP OF ST. CLAIR**

**BY-LAW NUMBER 11 of 2010**

Being a by-law to authorize the use of optical scanning vote tabulators at  
Municipal Elections.

\*\*\*\*\*

**WHEREAS** Section 42 of the Municipal Elections Act, 1996 provides that the council of a municipality may, by by-law, authorize the use of optical scanning vote tabulators for the purpose of counting votes at municipal elections and "vote by mail" method of casting ballots;

**AND WHEREAS** the Council of the Corporation of the Township of St. Clair considers it desirable to pass such a by-law;

**BE IT ENACTED AND IT IS HEREBY ENATED** as a by-law of the Corporation of the Township of St. Clair by the Council thereof be it enacted as follows:

- 1) That the Council of the Corporation of the Township of St. Clair hereby authorizes the use of optical scanning vote tabulators for the purpose of counting votes at municipal elections for 2010.
- 2) That the "vote by mail" method of casting ballots be adopted for the 2010 municipal election.
- 3) That the Mayor and Clerk or their designates be authorized to sign any contracts or agreements related to the optical scanner, "vote by mail" and voter list management systems suppliers.
- 4) That this by-law shall come into full force and take effect as of the date of its passing.

**READ A FIRST, SECOND AND THIRD Time this 25<sup>th</sup> day of February 2010.**



MAYOR



CLERK

**SCHEDULE A  
TO BY-LAW 11 OF 2010**

**PROCEDURES FOR THE 2010 MUNICIPAL ELECTION**

The 2010 Municipal Election will be held on October 25, 2010 and will be conducted using the Vote by Mail process. Every elector has the responsibility to complete his/her ballot in accordance with the instructions provided with the voting kit and return the ballot to the appropriate location.

**DEFINITIONS:**

**"CLERK"** shall mean the Clerk of The Township of St. Clair.

**"COUNCIL"** shall mean the Council of The Township of St. Clair.

**"COUNTING LOCATION"** shall mean the St. Clair Civic Centre, 1155 Emily Street, Mooretown, Ontario.

**"MUNICIPAL OFFICE"** unless otherwise specified, shall mean The Township of St. Clair, Civic Centre, 1155 Emily Street, Mooretown.

**"MUNICIPAL WEBSITE"** shall mean [www.twp.stclair.on.ca](http://www.twp.stclair.on.ca)

**1. ELECTION OFFICIALS**

- 1) The Clerk may appoint in writing Deputy Returning Officers and such other officials as required to assist in the administration of the election process, including but not limited to revising the voters' list, management and control of the vote by mail system, security of the election, counting ballots, tabulating results, issuance of notices, and printing of materials.
- 2) Written appointment of election officials and delegation of duties shall include the authority to require a person to furnish proof of identity or qualifications pursuant to the Municipal Elections Act, 1996.

**2. SCRUTINEERS**

- 1) A certified candidate may appoint, in writing, scrutineers to be present during counting of the votes, and also at the daily receipt of the return ballot packages. All scrutineers will be required to show proof of appointment in the form prescribed by the Clerk. Prescribed forms are available from the Clerk.
- 2) The rights of scrutineers are set out in the Municipal Elections Act, subject to whatever modifications are necessary to accommodate the vote by mail process.
- 3) One scrutineer per candidate will be permitted during the daily receipt of ballot packages, and on election night, one scrutineer for each candidate is permitted in the counting center, but the scrutineers will be asked to vacate while the candidate who appointed them is present.

**3. PRELIMINARY LIST AND VOTERS' LIST**

- 1) The preliminary list and the voters' list are public documents and may be inspected by the public at the Civic Centre.
- 2) No person shall use information obtained from these lists, except for election purposes. The use and sale of these lists for commercial purposes is PROHIBITED.

- 3) The clerk shall provide candidate with a copy of the part of the voters' list that contains the names of the electors who are entitled to vote for that office. Candidates will be required to sign a declaration, stating that the voters' list will be used for election purposes only.

#### **4. NOTICES**

When required under the Act, notices will be published in the two newspapers having general circulation in the Municipality, those being the Sarnia Observer and the Wallaceburg Courier Press and additional newspapers at the discretion of the Clerk. In addition, when possible, notices will also be posted in the Civic Centre and the Municipal Website.

- 1) Notice of Revision of Voters' List: The period for revisions to the voters' list is from September 7 to the close of voting at 8:00 p.m. on October 25, 2010. The notice will be published on or before September 1, 2010.
- 2) Notice of Nomination: The nomination period runs from Jan. 1, 2010 until 2:00 p.m. on September 10, 2010. The notice will be posted and published on or before September 1, 2010.
- 3) Notice of Election: Voting day is Monday, October 25, 2010. The notice will be posted and published on or before September 1, 2010.

#### **5. REVISION OF THE VOTERS' LIST – PROCEDURES**

- 1) The period for revisions to the voters' list is from September 7 to the close of voting at 8:00 p.m. on voting day (October 25, 2010).
  - i September 10, 2010 (Nomination Day) is the last day for making application to remove another person's name from the voters' list.
  - ii Revision of the list will be conducted at The Township of St. Clair Civic Centre, Mooretown, on forms available from the Clerk's Department, during regular office hours up to and including voting day (October 25, 2010). On October 25, 2010 additions can take place from 10:00 a.m. to 8:00 p.m.
  - iii The Clerk will maintain a list of changes.
- 2) Applications to revise the voters' list may be filed in person or by mail by the applicant or in person by an agent.
  - i Electors added to the list before September 24 will receive their ballot package by mail from Canada Post.
  - ii Electors added to the list between September 24 and October 16 will receive their ballot package by mail from the Municipality or in person.
  - iii After October 16, it is recommended that those persons making application to add their names to the list do so in person at Civic Centre, Mooretown. If the application is certified by the Clerk, the electors will receive a ballot package from the Clerk at that time.
  - iv It must be emphasized that, in a Vote by Mail system, the onus is on ELIGIBLE ELECTORS TO ENSURE that their NAMES and RELEVANT INFORMATION is on the Voters' List. Due to time constraints the Clerk cannot ensure that ballot packages mailed out after October 16 will reach electors in time for them to exercise their right to vote.

- 1) Where it is possible to mail a ballot package to an elector, and if the elector undertakes to pay the cost of courier service, the Clerk will arrange for a ballot package to be delivered to the elector by courier, COLLECT ONLY.

## **6. NOMINATIONS**

- 1) Nominations are to be filed with the Clerk or designate at The Township of St. Clair Civic Centre, Mooretown, in person or through an agent during normal office hours until September 10, 2010 at 2:00 p.m.
- 2) On Nomination Day, September 29, 2006, the prescribed filing time is 8:30 a.m. to 2:00 p.m. and nominations will be accepted at The Township of St. Clair Civic Centre, Mooretown, only.
- 3) Nominations must be on the prescribed form and accompanied by the prescribed fee. (Ward Councillor or Deputy Mayor – one hundred dollars, Mayor – two hundred dollars – cash, money order or certified cheque).
- 4) Nomination forms will be reviewed for completeness when filed and will be certified at a later date, on or before 2:00 p.m. September 13, 2010.
- 5) Notice of Offices for which persons may be nominated and nomination procedures shall be given by advertisement in a local paper with general circulation prior to September 1, 2010.
- 6) An unofficial list of persons who have submitted nomination forms and the office that they are seeking election to, shall be updated as soon as practical after receipt of nomination papers. The list will also be included on The Township of St. Clair Web site ([www.twp.stclair.on.ca](http://www.twp.stclair.on.ca)) and posted at the Civic Centre, Mooretown.
- 7) Nomination forms submitted on nomination day shall be certified as soon as possible after receipt.
- 8) An official list shall be posted once nomination forms have been certified and the nomination period has expired.

## **7. FORM OF BALLOT**

For the election within St. Clair Township, subject to the prescribed form of ballot, composite ballots shall be used for the Mayor, Deputy Mayor, Ward Councillor and School Board Trustee.

## **8. POLLING PLACES**

On October 25, 2010 there will be a polling station established at the Civic Center located at 1155 Emily Street, Mooretown. This polling place is anticipated to be used as a mail drop for electors who are not confident that their ballots will be received in time by regular mail or those electors who wish to be added to the voters list on polling day.

## **9. COUNTING OF VOTES**

As ballots are received at the Civic Centre, by hand delivery or by Canada Post, election officials will strike off the name of the elector by way of an electronic list of electors (Municipal Voter View) and remove the secrecy envelope containing the ballot and place these in a ballot box that shall be sealed and placed in a secure location until the commencement of counting on polling day.

On October 25, 2010 counting will be conducted at a single location, namely the Township Civic Centre, 1155 Emily Street, Mooretown. No earlier than 2:00 p.m. on

October 25, 2010 election workers will be sequestered in a controlled access area and counting of the ballots will commence. The ballots received at the polling station will be transported to the Civic Centre counting station to be counted. Counting will be by way of electronic tabulators. No results will be available or announced until after the 8:00 p.m. close of polls. The secure counting area will be available to candidates and scrutineers on provision of appropriate identification. Those observing the process, other than appointed election officials, will not be allowed to touch the ballots.

Counting the ballots, completion of the statements of results and handling of election materials will proceed as set out in the Municipal Elections Act 1996, subject to whatever modifications that may be required due to the vote by mail process and the electronic tabulation.

#### **10. ANNOUNCEMENT OF RESULTS**

Unofficial results of the counting will be posted in the public assembly section of the Civic Centre, Mooretown, following the conclusion of counting by the counting teams on election night.

Official results will be announced and posted by the Clerk at the Municipal Office and on the Municipal Web site as soon as possible after voting day.

#### **11. GENERAL**

Any person, corporation or trade union guilty of corrupt practices or contravening provisions of the Municipal Elections Act 1996 may be prosecuted pursuant to the provisions of the Municipal Elections Act 1996.

#### **12. VOTE BY MAIL PROCEDURES**

The vote by mail procedures are outlined in the policy of the same name and attached to By-law 11 of 2010.

**SCHEDULE B  
TO BY-LAW 11 OF 2010**

**VOTE BY MAIL PROCEDURES**

**“Vote by Mail”** shall apply to all voting in the 2010 Municipal Election in the Municipality of The Township of St. Clair. The purpose of this document is to establish procedures for the conduct of the election.

**DEFINITIONS:**

**“CLERK”** shall mean the Clerk of The Township of St. Clair.

**“COUNCIL”** shall mean the Council of The Township of St. Clair.

**“COUNTING LOCATION”** shall mean the St. Clair Civic Centre, 1155 Emily Street, Mooretown, Ontario.

**“MUNICIPAL OFFICE”** unless otherwise specified, shall mean The Township of St. Clair, Civic Centre, 1155 Emily Street, Mooretown.

**1. PROCEDURES FOR VOTE BY MAIL (Section 42(3))**

- a) The Council of The Township of St. Clair enacted By-law 11 of 2010 on February 25, 2010, authorizing the use of Vote by Mail as an alternative voting method and electronic vote tabulation for the 2010 Municipal Election and in subsequent elections. The Municipal Elections Act, 1996 provides that when a by-law authorizing the use of an alternative voting method is in effect, sections 43 (advance votes) and 44 (voting proxies) apply only if the by-law so specifies. Pursuant to By-law 11 of 2010, Council has authorized the elimination of advance votes and proxy voting.
- b) Section 42(3) of the Act requires that the Clerk establish procedures and forms for the use of any alternative voting method and provide a copy of the procedures and forms to each candidate. The purpose of this document is to establish procedures for the use of the vote by mail method that are consistent with the principles of The Municipal Elections Act, 1996. It is noted that the Clerk, in the role of Returning Officer, may need to vary from these prescribed rules from time to time if necessary.
- c) The “Vote by Mail” option is used to ensure that every eligible elector has an opportunity to exercise his/her right to vote.
- d) If it is necessary to amend any of these procedures, a copy of the amendment will be mailed to each candidate at the address shown on the nomination form or faxed to the number shown on the nomination form.
- e) With respect to matters of policy and procedures for alternative voting methods, the Clerk’s decision is final.
- f) The place where ballots will be counted on voting day is the Civic Centre, 1155 Emily Street, Mooretown, which is referred to herein as the Counting Location. Results will be posted in the public assembly portion of the St. Clair Civic Centre as soon as they become available. Results will also be posted at the Civic Centre and the Municipal Website the next business day.
- g) **Emergency Plan:** It is impossible to predict if an emergency will occur, and if so, to what extent the conduct of the election will be affected. In the event of an emergency, the Clerk may, in accordance with Section 53 of the Municipal Elections Act, declare an emergency and make such arrangements as are considered necessary for the conduct of the election.

## 2. VOTE BY MAIL PROCEDURE (2010)

Where an election is required to be held for an office, the vote by mail procedure shall be as follows:

- a) On approximately **September 27, 2010**, Canada Post will begin delivery of voter kits to electors that are on the voters' list as of **September 24, 2010**. After this date, voter kits will be delivered manually by the Returning Officer.
  - i When mailed to an elector the kit containing all materials required to vote is referred to as a "voter kit". A voter kit will contain a ballot, instructions for completing the ballot, a voter declaration, a ballot envelope and a pre paid business reply envelope.
  - ii Once received by the municipality, the sealed business reply envelope will be referred to as a "ballot package" and the sealed ballot envelope will be referred to as a "ballot envelope".
- b) On receipt of the voter kit, each elector should follow the instructions provided in the kit exactly. The instructions require the elector to:
  - i Complete the ballot;
  - ii Insert the ballot into the ballot envelope;
  - iii Seal the ballot envelope;
  - iv Complete a voter declaration form;
  - v Place the completed voter declaration form and the ballot envelope into the business reply envelope;
  - vi Seal the business reply envelope; and
  - vii Mail the business reply envelope by **October 16, 2010 or** deliver it by some other means to the St. Clair Civic Centre no later than 8:00 p.m. on October 25, 2010.

Note: The postage paid envelope is only applicable for mail originating within Canada.

- c) **October 16, 2010** is the final day to mail a ballot package.
- d) Electors who have failed to mail their ballot package by **October 16, 2010** are encouraged to take steps to ensure alternate delivery of ballot packages to the Moore Sports Complex on prior to 8:00 p.m. on Election Day.
- e) The "vote by mail" contractor has a record of all electors on the voters' list provided by the Regional Assessment Office, and has received a list of all electors added to the list up to and including **September 24, 2010**.
  - i Electors on or added to the list up to **September 24, 2010** will receive their voter kit by mail from Canada Post.
  - ii Electors added to the list between **September 24, 2010 and October 25, 2010** will receive their voter kit by mail from the Clerk at the St. Clair Civic Centre, Mooretown or in person.
  - iii **After October 16, 2010** it is recommended that those persons making application to add their names to the list do so in person or by an agent at the Municipal Office. If the application is certified by the clerk, a voter kit will be issued at that time.

- iv It must be emphasized that, in a vote by mail system, the onus is on eligible electors to ensure that their names are on the voters' list. Due to time constraints the clerk cannot ensure that voter kits mailed after **October 16, 2010** will reach electors in time for them to exercise their right to vote.
  - 1) Where it is not possible to mail a voter kit to an elector, and if the elector undertakes to pay the cost of courier service, the clerk will arrange for a voter kit to be delivered to the elector by courier, collect only.
- f) If an elector on, or added to, the voters' list does not receive a voter kit, or if the kit is lost or destroyed, a replacement kit may be issued. The elector or his agent may attend at the Municipal Office to obtain a replacement kit. The Clerk or designate will confirm that the elector is qualified, administer an appropriate oath, and issue the replacement voter kit. The master voters' list and declaration form will be marked to indicate that a replacement kit was issued.
- g) Blank voter kits will be stored in the vault at the Civic Centre. The vault door will be closed at all times except when necessary to access material stored in the vault.

### **3. PROCEDURE ON RECEIPT OF BALLOT PACKAGES AT THE MUNICIPAL OFFICE**

- a) Ballot packages which are received at the Municipal Office will be stored in the vault in the Civic Centre for safekeeping until the designated time for the ballot packages to be opened in accordance with the procedure set out in Section 4.
  - i Access to the Municipal vault will be restricted commencing at the time of receipt of the first ballot package until the close of the voting on October 25, 2010.
- b) The opening of ballot packages between September 30, 2010 and October 25, 2010 is for the purpose of processing voter declaration forms, updating voters' list and placing sealed ballot envelopes into the ballot boxes.
- c) Electors attending in person at the Civic Center on October 25, 2010 to exercise their right to vote shall complete their vote in accordance with the instructions contained in the voter kit, and deliver the ballot package to an Election Assistant.
- d) At designated times and locations, as noted below, ballot packages will be opened by election officials and dealt with as noted in Section 4.

Friday September 30, 2010 – October 25, 2010, between the hours of 8:30 a.m. and 4:30 p.m., as required.
- e) Depending on volume of returns, fewer or additional days will be scheduled for opening of ballot packages.

### **4. OPENING OF BALLOT PACKAGES PRIOR TO COUNTING**

At the designated time and location an election official, in the presence of at least one other election official, will open ballot packages which have been received at the Civic Centre, and will:

- a) Remove the ballot envelope and elector declaration from the return envelope.



1. If a ballot package contains a different number of elector declarations than the number of ballot envelopes that are contained within the same ballot package, the ballot(s) will be rejected.
2. If a ballot package contains an elector declaration which has not been signed, the ballot will be rejected. The elector declaration and ballot will be stapled together and filed alphabetically by ward.
3. If a ballot envelope contains writing or marks that may identify the elector, or is torn or defaced or otherwise dealt with by the elector in a way that may identify him or her, the ballot may be rejected.
4. Since the ballot package will be opened and separated from the ballot secrecy envelope prior to counting, and the ballot envelope is not marked, but is unsealed, these ballot secrecy envelopes will not automatically be rejected. The decision of the Clerk or his/her designate as to whether or not to accept the ballot is final.
5. Where a ballot secrecy envelope is rejected, the reason for the rejection shall be recorded by numbering the ballot envelope and noting the reason for the rejection on a separate Rejected Ballots Record. If the voter's name can be determined, a notation will be made beside his/her name on the voters' list.
  - b) Update the voters' list by striking the name of the elector.
  - c) File the elector declaration, by ward.
  - d) Place the ballot secrecy envelope in the appropriate ballot box and keep a running tally of the number of ballot secrecy envelopes in that box. (In order to facilitate counting on Election night, a maximum number of ballots per box will be predetermined). Once the box contains the predetermined number of ballots, the box will be sealed, numbered sequentially and stored in the vault. A new box for that ward will then be utilized.
 

i.e.: Ward 1, Box 1 – once this box contains the predetermined number of ballot envelopes, it will be numbered accordingly, sealed and placed in the vault. A new ballot box, numbered Ward 1, Box 2 will be used.
  - e) After all ballot packages received each day have been processed, affix a seal to each ballot box, initial the seal and place the sealed ballot box in the Municipal vault.
  - f) At the next designated time, retrieve the ballot boxes, inspect the seals to ensure that they are intact, and break the seals to access the slots for use.

## **5. COUNTING OF BALLOTS**

As ballots are received at the Civic Centre, by hand delivery or by Canada Post, election officials will strike off the name of the elector by way of an electronic list of electors (Municipal Voter View) and remove the secrecy envelope containing the ballot and place these in a ballot box that shall be sealed and placed in a secure location until the commencement of counting on polling day.

On October 25, 2010 counting will be conducted at a single location, namely the Township Civic Centre, 1155 Emily Street, Mooretown. No earlier than 2:00 p.m. on October 25, 2010 election workers will be sequestered in a controlled access area and counting of the ballots will commence. Counting will be by way of electronic tabulators. No results will be available or announced until after the 8:00 p.m. close of polls. The secure counting area will be available to candidates and scrutineers on provision of appropriate identification. Those observing the process, other than appointed election officials, will not be allowed to touch the ballots.

Counting the ballots, completion of the statements of results and handling of election materials will proceed as set out in the Municipal Elections Act 1996, subject to whatever modifications that may be required due to the vote by mail process and the electronic tabulation.

## **6. BALLOT RECONCILIATION**

- a) Reconciliation of ballots will be based on:
  - number of voter kits mailed to electors
  - number issued through the revision process
  - number returned undelivered and returned by Canada Post
  - number returned in time to be counted
  - number returned after close of voting
- b) Statistical analysis of "voter turnout" will be drawn from the reconciliation process and by counting the number of ballots dealt with on Voting Day as set out in the Statement of the Deputy Returning Officer.
- c) In a traditional election, reconciliation of ballots is a means of ensuring that the number of ballots handed out is the same as the number of ballots returned. It must be noted that, in the vote by mail process, the reconciliation is only meaningful in terms of election statistics.