

Town of O’Leary, PEI
A Bylaw for Municipal Elections Proceedings
Bylaw # 2022 – 01

BE IT ENACTED by the Council of the Town of O’Leary as follows:

PART I – INTERPRETATION AND APPLICATION

1. Title

1.1. This bylaw shall be known and cited as the “Elections Bylaw.”

2. Purpose

2.1. The purpose of this bylaw is to establish the rules and procedures for municipal elections.

3. Authority

3.1. This bylaw is adopted pursuant to Part 3 of the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1, the Municipal Election Regulations, and the Campaign Contributions and Election Expenses Bylaw Regulations.

4. Application

4.1. This bylaw applies to the Mayor and all members of Council, municipal employees, and the public. It operates together with, and as a supplement to, the *Municipal Government Act* and applicable regulations.

5. Definitions

5.1. In this bylaw, any word and term that is defined in the *Municipal Government Act*, the Municipal Election Regulations, or the Campaign Contributions and Election Expenses Bylaw Regulations has the same meaning as in that Act or regulations.

5.2. “Act” means the *Municipal Government Act*.

5.3. “Campaign Financing Regulations” – means the Campaign Contributions and Election Expenses Bylaw Regulations.

5.4. “Campaign Contribution” – means any money paid, or any donation in kind provided, to or for the benefit of a candidate during the election contribution period for the purpose of financing an election campaign, including revenue raised from a fundraising event by the sale of tickets or otherwise, but does not include volunteer labour or services.

5.5. “Campaign Contribution Period” – means the same period of time as the election’s expenses period for a particular candidate or person who has declared an intention to become a candidate.

5.6. “Candidate” - means a person nominated in accordance with Part 3, Division 8, of the Act, and for the purposes of the provisions of this bylaw pertaining to campaign

contributions and election expenses, includes a person who has declared an intention to run as a candidate in accordance with clause 2(1)(a) of the Campaign Contributions and Election Expenses Bylaw Regulations.

- 5.7. "Chief Administrative Officer" or "CAO" means the administrative head of the Municipality as appointed by council under clause 86(2)(c) of the Act.
- 5.8. "Council" means the mayor and other members of the council of the municipality.
- 5.9. "Councillor" means a member of council other than the mayor.
- 5.10. "Election Expense" - means the cost of goods and services, and the value of any donation in kind, used by or for the benefit of the candidate for the purpose of a candidate's election campaign, but does not include audit fees or volunteer labour or services.
- 5.11. "Election Expenses Period" – means the period in an election year beginning when a person publicly declares the person's intention to run as a candidate for municipal office, whether in person or by electronic means, and ending, in the case of an election, on the earlier of election day, and the declaration by the municipal electoral officer that the candidate is elected. In the case of a by-election, the election expenses period means the date when council sets the election day and ends on the earlier of election day, and the declaration by the municipal electoral officer that the candidate is elected.
- 5.12. "Election Regulations" – means the Municipal Election Regulations.
- 5.13. "Employee" means, except as provided elsewhere in the Act, a person who performs work for a municipality for pay, and includes a person on leave from employment with a municipality, a person being trained by a municipality to perform work for the municipality, a person retained under an employment contract to perform work for the municipality, and any other person or class of person designated as an employee by the Minister, but does not include an independent officer, as defined in the Act. In Part 3 of the Act respecting candidacy for election, employee also means any employee of a controlled corporation, but does not include a volunteer firefighter who is not otherwise employed by the municipality.
- 5.14. "List of Electors" means the preliminary list of electors, supplementary list of electors or the official list of electors, as the context requires;
- 5.15. "Municipal Electoral Officer" means the person appointed under section 40 of the Act to be responsible for the administration of the election.
- 5.16. "Municipality" means the Town of O'Leary.

6. Interpretation

- 6.1. This bylaw is to be given a broad, liberal interpretation in accordance with applicable legislation, regulations, and the definitions set out in them.

Part II –Employee Election Activities

7. General

- 7.1. All employee election activities and interaction with employees relating to elections shall be undertaken in accordance with subsections 35(1) and (2) of the Act.

Part III – Campaign Contributions and Election Expense Disclosure

8. Election Expenses

- 8.1. Pursuant to clause 2(1)(a) of the Campaign Financing Regulations, in the case of an election, the election expenses period is the period in an election year beginning when a person publically declares their intention to run as a candidate (in person or by electronic means) and ending on the election day or the declaration that the candidate is elected, whichever is earlier.
- 8.2. Pursuant to clause 2(1)(b) of the Campaign Financing Regulations, in the case of a by-election, the election expenses period is the period beginning when Council sets the date of the election day and ending on the earlier of election day and the declaration that the candidate is elected.
- 8.3. Except as provided in Section 8.4 of this bylaw, pursuant to subsection 2(2) of the Campaign Financing Regulations, election expenses shall only be incurred by or on behalf of a candidate during the election expenses period.
- 8.4. Pursuant to subsection 2(3) of the Campaign Financing Regulations, expenses related to the preparation of advertising materials and signs may be incurred prior to the election expenses period. These expenses shall be recorded and disclosed as election expenses in accordance with the provisions of this bylaw.
- 8.5. Pursuant to subsection 3(1) of the Campaign Financing, the maximum allowable election expenses of a candidate for mayor is \$50,000.
- 8.6. Pursuant to subsection 3(2) of the Campaign Financing, the maximum allowable election expenses of a candidate for councillor is \$10,000
- 8.7. Pursuant to section 10 of the Campaign Financing Regulations, election expenses incurred by a candidate in an election shall not be carried forward to be considered as an allowable election expenses in a subsequent election.

9. Campaign Contributions

- 9.1. Campaign contributions shall only be received by a candidate during the campaign contribution period as defined in the Campaign Financing Regulations.
- 9.2. Pursuant to subsection 4(1) of the Campaign Financing Regulations and effective January 1, 2019, the following may contribute to a candidate's campaign in an election or by-election:
 - (a) an individual;
 - (b) an organization;

- (c) a union;
 - (d) a corporation;
- 9.3. Pursuant to subsection 4(2) of the Campaign Financing Regulations, a contributor shall not make a contribution exceeding \$1,575 to any one candidate for Mayor in an election.
- 9.4. Pursuant to subsection 4(3) of the Campaign Financing, a contributor shall not make a contribution exceeding \$1,575 to any one candidate for Councillor in an election.
- 9.5. Pursuant to subsection 4(4) of the Campaign Financing Regulations, neither a candidate nor that candidate's spouse shall make a contribution to that candidate's own election campaign exceeding the difference between the maximum expenditure amount and the total contributions from other contributors .
- 9.6. Pursuant to subsection 8(1) of the Campaign Financing Regulations, no candidate shall accept anonymous campaign contributions.
- 9.7. Pursuant to subsection 8(2) of the Campaign Financing Regulations, where a candidate receives an anonymous campaign contribution, the candidate shall ensure that the contribution is not used or spent, but is donated to a registered charity of the candidate's choice within 30 days of receipt of the contribution.

10. Candidate Records

- 10.1. Pursuant to subsection 5(1) of the Campaign Financing Regulations, a candidate shall keep complete and proper accounting records of all campaign contributions and election expenses.
- 10.2. Pursuant to subsection 5(2) of the Campaign Financing Regulations, a candidate must ensure that:
- (a) proper records are kept of receipts and expenses;
 - (b) a record is kept of the value of every campaign contribution, whether the contribution is in the form of money, goods or services, and the name and address of the contributor;
 - (c) receipts are provided to the contributor for every campaign contribution referred to in section 10.2(b) of this bylaw; and
 - (d) all records kept in accordance of this section remain in the possession and under control of the candidate or the candidate's agent at all times.

11. Candidate Disclosure: Filing and Records Retention

- 11.1. Pursuant to subsection 6(2) of the Campaign Financing Regulations, a candidate shall file a disclosure statement of the candidate's campaign contributions and election expenses, listing all campaign contributions and all elections expenses.

- 11.2. The disclosure statement shall be in writing in the form approved by the Minister and shall be filed with the Municipal Electoral Officer within two months following the date of a municipal election.
- 11.3. If the MEO is no longer appointed, the candidate shall file the disclosure statement with the CAO.
- 11.4. Pursuant to subsection 6(3) of the Campaign Financing Regulations, a candidate's disclosure statement shall include:
 - (a) a statutory declaration that states the total campaign contributions and the total election expenses of the candidate for that election campaign, and whether there is any surplus;
 - (b) the following information in relation to campaign contributions:
 - i. the name and address of each contributor whose cumulative campaign contribution exceeded \$250;
 - ii. the cumulative amount that each of the named contributors has given to the candidate;
 - iii. the cumulative total of all contributions under \$250;
 - iv. If no contributor's cumulative campaign contribution exceeded \$250, a notation to that effect;
 - (c) a list of all election expenses and campaign contributions;
 - (d) a full accounting of all election expenses and campaign contributions relating to fundraising events;
 - (e) a description and estimated value of each donation in kind; and
 - (f) a description and estimated value of each loan received for the purposes of the election campaign.
- 11.5. Pursuant to section 7 of the Campaign Financing regulations, no candidate shall file a false, misleading or incomplete disclosure statement.
- 11.6. Pursuant to subsection 9(1) of the Campaign Financing Regulations, where a candidate's disclosure statement filed in accordance with 11.1 of the bylaw discloses a surplus of campaign contributions in the form of money, a named contributor's monetary campaign contribution shall be returned to the contributor, on a pro-rated basis, where
 - (a) the candidate withdraws from the election prior to election day; and
 - (b) the contributor requests in writing to the candidate, within 14 days of the candidate's withdrawal, the return of the campaign contribution.
- 11.7. Subject to a refund of a named contributor's campaign contribution pursuant to subsection 11.6 of this bylaw, where a candidate's disclosure statement filed in accordance with 11.1 of the bylaw discloses a surplus of campaign contributions in the form of money, the candidate shall turn over the remaining surplus to the CAO to be used for municipal purposes.

- 11.8. Pursuant to subsection 11 (1) of the Campaign Financing Regulations, all documents filed with the municipal electoral officer shall be delivered by the municipal electoral officer to the chief administrative officer of the municipality within two weeks after the time specified in section 11(2) of the bylaw for filing the documents.
- 11.9. Pursuant to subsection 11(2) of the Campaign Financing Regulations, the CAO shall retain the documents referred to in 11.8 of this bylaw in accordance with the records retention and disposal schedule of the municipality that is established pursuant to section 117 of the Act.
- 11.10. Pursuant to subsection 11(3) of the Campaign Financing Regulations, all documents filed with the MEO and retained by the CAO under section 11.9 of this bylaw are public documents and may, upon request, be available for inspection on request to the CAO during regular officer hours.
- 11.11. Pursuant to subsection 12(1) of the Campaign Financing Regulations, a candidate, whether elected or not, shall retain all records required pursuant to the regulations for no less than seven years.
- 11.12. Pursuant to subsection 12(2) of the Campaign Financing Regulations, the MEO, or the CAO if the MEO is no longer appointed, may require a candidate (whether elected or not) to provide additional information and supporting documentation in respect of the candidate's disclosure statement at any time within the seven-year period referred to in section 11.11 of this bylaw.

12. Reporting

- 12.1. Pursuant to subsection 11(4) of the Campaign Financing Regulations, the CAO shall forward to Council a report summarizing the disclosure statement of each candidate, noting any candidate who has exceeded the limit on election expenses pursuant to sections 8.5 and 8.6 of this bylaw and the name of any candidate who failed to file the required disclosure statement.
- 12.2. Pursuant to subsection 11(5) of the Campaign Financing Regulations, the CAO shall ensure that the summary referred to in section 12.1 of this bylaw is posted in a conspicuous place in the municipality and/or on the website of the municipality for a period of at least 6 months
- 12.3. Pursuant to subsection 11(6) of the Campaign Financing Regulations, the CAO shall ensure that the filed disclosure statement of each candidate who sought election in the immediately preceding election (whether elected or not) is posted on the website of the municipality for a period of at least 6 months.

13. Complaints & Compliance

- 13.1. Pursuant to **subsection** 12(3) of the Campaign Financing Regulations, where:
 - (a) a candidate fails or refuses to provide the additional information and supporting documentation referred to in section 11.12 of the bylaw; or

(b) the MEO or CAO, as the case may be, is not satisfied with the additional information and supporting documentation provided by the candidate;

The MEO or CAO, as the case may be, refer the matter to Council.

13.2. Pursuant to subsection 12(4) of the Campaign Financing Regulations, Council may:

(a) determine that no further action is required;

(b) order the candidate to provide the additional information and supporting documentation required under section 11.12 of the bylaw; or

(c) take any further action the Council considers appropriate.

13.3. Pursuant to subsection 12(5) of the Campaign Financing Regulations, an elector of the municipality may in writing make a complaint that relates to information contained in a candidate's disclosure statement and deliver the complaint to the MEO, or the CAO if the MEO is no longer appointed.

13.4. Pursuant to subsection 12(6) of the Campaign Financing Regulations, the MEO or the CAO, as the case may be, who receives a complaint from an elector under section 13.3 of this bylaw may:

(a) determine that no further action is required;

(b) require the candidate who is the subject of the complaint to provide additional information under section 11.12 of the bylaw, or

(c) refer the matter to Council to be dealt with under section 13.2 of this bylaw.

14. Offences and Penalties

14.1. Pursuant to subsection 13(1) of the Campaign Financing Regulations, a person who contravenes a provision of this bylaw is guilty of an offence and liable on summary conviction to a fine of \$2,000.

14.2. Pursuant to clause 13(2)(a) of the Campaign Financing Regulations, a conviction for an offence referred to in section 14.1 of this bylaw does not relieve the person convicted, including a candidate referred to in section 13.2(b) of this bylaw, from the requirement to comply with this bylaw.

14.3. Pursuant to clause 13(2)(b) of the Campaign Financing Regulations, the convicting judge may, in addition to any fine imposed, order the person to do any act or work, within the time specified by the judge in the order, to comply with the provisions of this bylaw.

14.4. Pursuant to subsection 14(1) of the Campaign Financing Regulations, where a candidate who is elected has contravened any provision of this bylaw and is convicted of an offence in respect of that contravention, the candidate is disqualified from office and shall resign immediately.

14.5. Pursuant to subsection 14.(2) of the Campaign Financing Regulations and despite 14.4 of this bylaw, a candidate may not be required to resign where a judge of the Supreme

Court decides that the contravention of the candidate arose through inadvertence or by reason of an honest mistake.

PART IV – List of Electors

15. Agreement with Elections PEI

- 15.1. Pursuant to subsection 41(2) of the Act, the Council of the Town of O’Leary shall enter into an agreement with the Chief Electoral Officer of Prince Edward Island to obtain data to be used in preparation of a list of electors.
- 15.2. The Municipal Electoral Officer may supplement the information obtained from the agreement with the Chief Electoral Officer of Prince Edward Island with information from any source that, in the opinion of the Chief Electoral Officer, is relevant to ensuring the list of electors is accurate.

16. Protection of Privacy

- 16.1. Personal information in respect of an elector that is collected or obtained for the purpose of an election
 - (a) shall be used only for the purpose for which it was collected or obtained; and
 - (b) shall be disclosed only to the Chief Electoral Officer for a purpose for which the Chief Electoral Officer has responsibility under this or any other enactment.

17. Voters Not on List

- 17.1. Pursuant to subsection 45(2) of the Election Regulations, electors not appearing on the official list of voters may register at the time of attendance at a voting opportunity if the person is eligible to vote under the Act.

Part V – Advance Polls

18. Advance polls

- 18.1 **An advance poll will be held in accordance with section 45 of the Act and section 43 of the Election Regulations**

Part VI – Administering the Election

19. Location of office

- 19.1. Pursuant to sections 10 and 11 of the Election Regulations, the election office shall be opened from the fourth Wednesday before the election at O’Leary Town Complex, 18 Community Street, O’Leary, PE and shall be open with hours to be determined by the Municipal Electoral Officer between 9 am and 9pm, and must be open while advance polling station and election day polls are open.

20. Candidates

20.1. Pursuant to subsection 12(2.1) of the Election Regulations, a candidate in an election is not eligible to be appointed, and shall not serve, as an election official in the election.

21. Person closely connected

21.1. Pursuant to subsection 18(3) of the Election regulations, a person closely connected, as defined in the Act, to a candidate shall not serve as an election official in the election.

22. Nominations

22.1. Pursuant to subsection 26(4)(a) of the Municipal Election Regulations, the minimum number of nominators required for each nomination shall be 5.

22.2. Notwithstanding 19.1 the deadline for submitting a nomination is 2:00pm on Nomination Day.

23. Records

23.1. Records pertaining to the election will be destroyed or retained, as the case may be, in accordance with section 87 of the Election Regulations and the records retention bylaw, and where such a bylaw has not yet been enacted the records will be retained for at least 7 years.

Part VII – By-Elections

24. By-elections

24.1. All by-elections will be undertaken in accordance with sections 60-62 of the Act and section 5 of the Election Regulations.

Part VIII – Approval and Adoption

25. Repeal of Existing Bylaw

25.1. On adoption, this bylaw replaces Bylaw # 2018 – 06, a Bylaw for Municipal Elections Proceedings and Bylaw # 2018 – 06 Amendment # 1.

26. Effective Date

26.1. This Elections Bylaw, Bylaw# 2022 - 01, shall be effective on the date of approval and adoption below.

First Reading:

This Elections Bylaw, Bylaw# 2022 - 01, was read a first time at the Council meeting held on the 9th day of February, 2022.

This Elections Bylaw, Bylaw# 2022 - 01, was approved by a majority of Council members present at the Council meeting held on the 9th day of February, 2022.

Second Reading:

This Elections Bylaw, Bylaw# 2022 - 01, was read a second time at the Council meeting held on the 9th day of March, 2022.

This Elections Bylaw, Bylaw# 2022 - 01, was approved by a majority of Council members present at the Council meeting held on the 9th day of March, 2022.

Approval and Adoption by Council:

This Elections Bylaw, Bylaw# 2022 - 01, was adopted by a majority of Council members present at the Council meeting held on the 9th day of March, 2022.

27. Signatures

____ERIC GAVIN_____

Mayor (signature sealed)

____BEVERLEY SHAW_____

Chief Administrative Officer (signature sealed)

This Elections Bylaw adopted by the Council of the Town of O’Leary on March 9, 2022, is certified to be a true copy.

____BEV SHAW_____

Chief Administrative Officer Signature

____MARCH 9, 2022_____

Date