



## **The Municipal Elections 2010 Guide**

**This guide is prepared for information purposes only. Reference should always be made to the relevant legislation and regulations.**

**Questions with respect to municipal or school board elections can be directed to:**

- ♦ your municipal clerk; or**
- ♦ a Ministry of Municipal Affairs and Housing Municipal Services Office**

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## Minister's Message

During each local election thousands of Ontarians put their names forward for office because they want to make a difference in their community.

When they cast their ballots every four years, their fellow citizens participate in a process that must be transparent, accountable and efficient. To help assure this, amendments to the *Municipal Elections Act, 1996* have been passed by the Ontario Legislature. These changes will be in effect for the 2010 municipal election.

The reforms help establish a more level playing field for all candidates and promote greater accessibility for voters and candidates with disabilities.

Specifically, the amendments:

- move the election date forward to the fourth Monday of October (October 25, 2010) from the second Monday in November
- require voters to provide identification at a voting place
- require all clerks to ensure that each voting place is accessible to voters with disabilities.

The financing of municipal elections has been reformed through these measures:

- a new contribution limit of \$5,000 per contributor in each jurisdiction
- for future elections, candidates will not be able to keep surplus campaign funds
- expenses related to a candidate's disability are campaign expenses that are excluded from his/her spending limit.

The amendments also impose strengthened compliance and enforcement measures:

- municipalities and school boards must appoint compliance audit committees to hear and decide on applications for compliance audits
- fines for contravention of the *Municipal Elections Act, 1996* are increased up to a maximum of \$25,000 for individuals and up to a maximum of \$50,000 for corporations and trade unions.

This publication serves as a guide to the electoral process for Ontario's municipal councils and school boards. The Municipal Elections 2010 Guide also describes the overall responsibilities of both candidates and voters.

I extend my best wishes to all those who are putting their names forward for municipal or school board office. I also want to thank in advance all those who will have their voices heard in local elections across Ontario.

Jim Watson  
Minister of Municipal Affairs and Housing

**IMPORTANT** The *Municipal Elections Act, 1996* (MEA) was recently amended by the *Good Government Act, 2009* (Bill 212). Persons should ensure that they are using the most up-to-date version of the legislation. The updated MEA can be found online at [Municipal Elections Act, 1996](#).

## **New For 2010**

Nominations must be filed by 2 p.m. on the second Friday in September (September 10, 2010).

Candidates wishing to withdraw their nomination must do so by 2 p.m. on the second Friday in September (September 10, 2010).

Voting day is the fourth Monday in October (October 25, 2010).

A contributor is limited to a maximum of \$5,000 in total contributions to candidates running for office on the same council or board. Contributors who exceed this limit may be liable to penalties under the *Municipal Elections Act, 1996*.

Municipalities may use information held by the municipality to revise and update the voters' list.

Every clerk must ensure that all voting places are accessible to electors with disabilities.

Electors voting at a voting place must show identification prior to obtaining a ballot.

Penalties for contravening the *Municipal Elections Act, 1996* have been increased. An individual who contravenes the contribution rules may face a fine of up to \$25,000 (\$50,000 for corporations and trade unions) and/or up to six months in prison if the offence was committed knowingly. Candidates who are convicted of contravening certain provisions of the Act also forfeit any office to which they were elected, and are ineligible to run until after the next regular election has taken place.

The nomination filing fee and interest on loans are now expenses subject to the campaign spending limit.

Expenses relating to a compliance audit are not subject to the spending limit. Expenses incurred by a candidate with a disability that are directly related to the candidacy are also not subject to the spending limit.

To avoid arguments that expenses incurred in holding a fundraising function may not be exempt from the spending limit, candidates should ensure that raising

money is the primary purpose of the function. Events or materials promoting the candidate in which fundraising is incidental do not qualify as fundraising functions and are therefore not exempt from the spending limit.

The spending limit formula is the base amount, which varies by office, plus \$0.85 cents per elector.

A candidate will receive an initial spending limit estimate when filing their nomination, and will receive a final spending limit after the close of nominations. Whichever of these two amounts is higher becomes the candidate's official spending limit.

The deadline for filing financial statements is 2 p.m. on Friday, March 25, 2011. If a candidate does not file by this deadline, and has not applied to the courts for an extension, the candidate forfeits any office won in the election, is ineligible to be elected and may not be appointed to any office until after the next regular election.

A candidate who has a deficit may extend their campaign to June 30. A candidate who incurs expenses related to a recount, controverted election or compliance audit after their campaign has ended on December 31 may re-open their campaign. All campaigns end on June 30.

All surplus funds must be turned over to the clerk to be held in trust. A candidate may access his or her surplus if he or she subsequently incurs expenses related to a recount, controverted election or compliance audit.

Surplus funds not required for such expenses become the property of the municipality or school board. Surplus funds may not be carried forward for use by the candidate in a subsequent election.

Financial filing forms have been revised. All candidates must now use the most up-to-date version of Form 4

Every council and school board must appoint a compliance audit committee by October 1.

**Voting Day is Monday, October 25, 2010.**

## Candidates

Persons wishing to seek elected municipal or school board office should read the relevant legislation and regulations for qualifications required for the office, e.g., the *Municipal Act, 2001*, the *Education Act*, and the *Municipal Elections Act, 1996*.

It is the responsibility of the candidate to determine whether he or she is qualified to be elected to and hold office.

Candidates can only be nominated for one office on a municipal council or school board in the Province of Ontario at a time. If person is nominated for a second office, the first nomination is deemed to be withdrawn.

## Qualification – Municipal Office

A candidate for municipal office must, upon nomination, be a qualified municipal elector and fulfil all of the following requirements:

- a resident of the municipality, a non-resident owner or tenant of land in the municipality or the spouse of such non-resident owner or tenant;
- a Canadian citizen;
- at least 18 years old;
- not legally prohibited from voting; and
- not disqualified by any legislation from holding municipal office.

**NOTE:** A candidate, if nominated, must remain qualified throughout the election and, if elected, throughout the term of office.

## Municipal Employees

An employee of a municipality who wishes to run for office in the municipality that is their employer must take an unpaid leave of absence prior to being nominated. If elected, the employee must resign his or her employment with the municipality.

If an employee of an upper tier or lower tier municipality wishes to run for office of the opposite tier, they can run without taking an unpaid leave of absence or resigning provided that being elected to the opposite tier does not include sitting on the other tier.

### **Example**

An employee of a region wishes to run for council in a local municipality. The employee does not need to take a leave to run for office. If elected, the employee cannot sit on regional council without resigning their employment. If the employee is not required to sit on regional council, the employee can retain their job.

### **Persons Not Eligible to Run for Municipal Office**

The following persons **are disqualified** from being elected to municipal office:

- any person not eligible to vote in the municipality;
- an employee of a municipality unless he or she
  - takes an unpaid leave of absence before being nominated, and
  - resigns, if elected to the office;
- a judge of any court;
- a member of the Legislative Assembly of Ontario, a Senator or a member of the House of Commons; or
- an inmate of a penal or correctional institution under sentence of imprisonment.

### **Qualification – School Board**

A candidate for a school board must, upon nomination, be a qualified municipal elector and fulfil all of the following requirements:

- a resident within the jurisdiction of the board;
- a supporter of the board;
- a Canadian citizen;
- at least 18 years old;
- Roman Catholic (if running for a separate school board);
- not legally prohibited from voting; and
- not disqualified by any legislation from holding school board office.

**NOTE:** A candidate, if nominated, must remain qualified throughout the election and, if elected, throughout the term of office. School board candidates should confirm that they have the qualifications described in section 219 of the *Education Act*.

## School Board Employees

An employee of a school board who wishes to run for office on **any** school board must take an unpaid leave of absence prior to being nominated. If elected, the employee must resign. A person may not be employed by one school board and hold office on a different school board.

## Persons Not Eligible to Run for School Board Office

A candidate for school board office cannot be a clerk, deputy clerk, treasurer or deputy treasurer of a municipality within the jurisdiction of a board.

The following persons **are disqualified** from being elected to school board office:

- any person not eligible to vote in the municipality;
- an employee of a school board unless he or she
  - takes an unpaid leave of absence before being nominated, and
  - resigns, if elected to the office;
- a judge of any court;
- a member of the Legislative Assembly of Ontario, a Senator or a member of the House of Commons; or
- an inmate of a penal or correctional institution under sentence of imprisonment.

**\*NOTE:** Despite the above disqualification, MPs, MPPs and Senators may be nominated for municipal or school board office without having to resign their current seat in Parliament, the Legislature or the Senate. However, by 2 p.m. on Friday, September 10 (nomination day), MPs, MPPs and Senators are required to resign their current seat should they wish to continue to seek municipal or school board office. Federal or Provincial Cabinet Ministers must step down from Cabinet prior to filing their nomination, and resign their seat by nomination day. If an MP, MPP or Senator does not resign prior to the close of nominations, their nomination will be rejected.

## Nomination

Nomination papers may be filed in the office of the clerk from the first day of January 2010 that municipal offices are open (January 4, 2010 in most municipalities) until 2 p.m. on nomination day, Friday, September 10, 2010.

The nomination must be in the prescribed form and accompanied by the prescribed fee. (Form 1)

The municipal clerk must certify or reject the nomination paper by 4 p.m. on Monday, September 13, 2010.

## **Nomination Process**

- Obtain nomination papers (Form 1) from the clerk of the municipality or on-line at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca).
- A nomination paper must be filed in person by the candidate or by an agent.
- The nomination paper must have original signatures. The nomination paper may not be faxed, mailed or emailed. Either the candidate or the agent must bring the completed and signed nomination papers to the office of the clerk. The candidate may be required to show proof of identity and qualifications.
- The prescribed nomination filing fee must be paid at the time of filing the nomination. Payment to the municipality must be made by cash, certified cheque or money order.
- The nomination filing fee is:
  - \$200 for the office of head of council; and
  - \$100 for all other offices.

**NOTE:** A candidate is entitled to a refund of the filing fee if he or she:

- is elected;
- receives more than two per cent of the votes cast for the office; or
- withdraws the nomination before nomination day.

## **Withdrawal of Candidacy**

If a candidate decides to withdraw from the election, he or she must notify the clerk in writing no later than 2 p.m. on nomination day (Friday, September 10, 2010).

A candidate who withdraws before nomination day is entitled to a refund of the nomination filing fee. A candidate who withdraws is still required to submit a completed financial disclosure covering all financial transactions made up to the date the nomination was withdrawn. (Form 4)

Form 4 is available at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca).

## **Nomination to More Than One Office**

A person may only be a candidate for one office. If a person who is nominated for an office files a second nomination for a different office, the first nomination is deemed to be withdrawn.

If a person's name appears on more than one ballot and he or she is elected to any of those offices, his or her election is void and the office is vacant.

## Changing Offices

### To Same Council or School Board

If, after filing nomination papers for an office, a candidate decides to seek election to another office on the **same** municipal council or school board:

- the first nomination is deemed to be withdrawn at the time the second nomination is filed;
- the nomination filing fee is transferred to the new office; and
- if both offices are to be elected by a general vote of all electors in the municipality, contributions received and expenses incurred for the original office are transferred to the new office.

#### Example

A candidate nominated for the office of councillor elected by a general vote in a municipality decides prior to the close of nominations on nomination day to file a new nomination for the office of mayor. The original nomination for the office of councillor is deemed to have been withdrawn at the time the nomination for mayor is filed. All contributions received and expenses incurred for the office of councillor are transferred to the new office, the office of mayor. Only one financial disclosure is required to be filed as the campaigns are deemed to be a single campaign.

If the candidate changes offices on the same council or school board, but one or both of the offices is **elected by ward**:

- the nomination filing fee is transferred to the new office;
- the two campaigns are deemed to be separate campaigns;
- contributions and expenses **cannot** be transferred to the new office; and
- two separate financial disclosures must be filed, one for each office.

#### Example

A candidate nominated for the office of ward councillor files a new nomination for the office of mayor. The original nomination for the office of ward councillor is deemed to be withdrawn at the time the nomination for mayor is filed. Each campaign – one for ward councillor and one for mayor – is considered a separate campaign and contributions and expenses cannot be transferred. The candidate is required to file two separate financial disclosures, one for the ward councillor campaign and one for the mayoralty campaign.

## To a Different Council or School Board

If, after being nominated, a candidate decides to seek election to an office on a **different** council or school board:

- the first nomination is deemed to be withdrawn at the time of filing the second nomination and the first election campaign period ends;
- a second filing fee for the new office must be paid;
- the two campaigns are separate campaigns;
- contributions and expenses **cannot** be transferred to the new office; and
- the candidate must file two separate financial disclosures, one for each office.

### Example

A candidate nominated for the office of councillor decides to seek election instead for the office of school board trustee. Upon filing the new nomination for trustee, the original nomination for councillor is deemed to be withdrawn and a second nomination filing fee must be paid. Each campaign is a separate campaign; contributions and expenses may not be transferred. The candidate is required to file two financial disclosures, one for the office of councillor and one for the office of school board trustee.

## Acclamations and Additional Nominations

If, on Monday, September 13, 2010 at 4 p.m. the number of certified candidates is the same as the number to be elected, the clerk will declare the candidates elected by acclamation.

Where the number of certified candidates is fewer than the number of positions to be elected, the clerk shall declare those candidates elected and call for additional nominations. Additional nominations may be filed between 9 a.m. and 2 p.m. on Wednesday, September 15, 2010 and certified by the clerk by 4 p.m. on Thursday, September 16, 2010.

## Scrutineers

Candidates may appoint scrutineers to represent them during the conduct of the vote and the counting of the votes. Appointments must be in writing and scrutineers may be required to show the appointment form to election officials at the voting place.

The *Municipal Elections Act, 1996* prohibits campaigning in the voting place and allows the clerk to define the boundaries of the voting place.

**If using scrutineers, the following rules may apply:**

- there is a limit of one (1) scrutineer per candidate per ballot box;
- the number of scrutineers in any one polling place for any one candidate is reduced by one if the candidate is in the polling place;
- scrutineers may be required by the clerk to take an oath of secrecy;
- scrutineers may not interfere with the activity of the vote or the counting of the ballots (they may observe but they can't touch the ballots); and
- acclaimed candidates are not entitled to scrutineers, neither are they entitled to be scrutineers.

**Scrutineers and certified candidates (not including those elected by acclamation) are entitled to:**

- enter the voting place 15 minutes before opening to inspect ballot boxes, ballots and all other papers relating to the vote;
- be present when election materials and documents are delivered to the clerk;
- place his or her seal on the ballot box to ensure ballots deposited in the box cannot be withdrawn without breaking the seal;
- examine ballots as they are counted, but not touch them; and
- object to a ballot or counting of ballots if the ballot or votes do not comply with the rules.

**NOTE:** Where a municipality uses vote counting equipment or an alternative voting method, candidates should check with the clerk to determine any additional requirements with respect to scrutineers.

**NEW FOR 2010**

Nominations must be filed by 2 p.m. on the second Friday in September (September 10, 2010.)

Candidates wishing to withdraw their nomination must do so by 2 p.m. on the second Friday in September (September 10, 2010).

Voting day is the fourth Monday in October (October 25, 2010).

## Voters

Qualifications for municipal council electors are described in the *Municipal Elections Act, 1996*.

Qualifications for school board electors are described in the *Municipal Elections Act, 1996* and the *Education Act*.

## Who Can Vote In a Council Election

A person is entitled to be an elector at an election held in a local municipality, if on voting day he or she is:

- a Canadian citizen;
- at least 18 years old;
- residing in the local municipality or an owner or tenant of land there, or the spouse of such owner or tenant; and
- not otherwise prohibited from voting.

### Ineligible Voters

The following cannot vote in a municipal election:

- a person serving a sentence of imprisonment in a penal or correctional institution;
- a corporation; or
- a person convicted of a corrupt practice for an election held within four years of voting day.

A person who is acting as an executor or in any other representative capacity (e.g., power of attorney), cannot vote on behalf of the person they are representing unless they have been appointed as a voting proxy.

### Number of Votes

A voter is only entitled to vote once in a municipality and once in a school board even if the voter has more than one qualifying property address within the municipality or school board. The place where they vote is where they reside. In a municipality with wards, if a voter resides in one ward but has other properties in different wards in the same municipality, he or she may only vote in the ward where he or she resides. A voter may only have one permanent residence.

## **Students**

A student may vote in the municipality where he or she is temporarily residing while attending school as well as at his or her permanent home in a different municipality, provided that he or she does not intend to change his or her permanent home.

## **Homeless Persons**

If a person has no permanent residence, then the following rules determine his or her residence:

1. The place in which the person most frequently returned to sleep or eat during the five weeks preceding the determination.
2. If the person returns with equal frequency to one place to sleep and another to eat, the place in which he or she sleeps.
3. Multiple returns to the same place during a single day, to eat or sleep, are considered to be one return.

A person's affidavit regarding the places to which he or she returned to eat or sleep during a given time period is conclusive, in the absence of evidence to the contrary.

## **Who Can Vote In a School Board District Election**

### **Eligible Voters**

A person is entitled to be an elector at an election held in a local municipality, or in territory without municipal organization within the area of jurisdiction of the district school board if, on voting day, he or she:

- is a Canadian citizen;
- is at least 18 years old;
- has not already voted in the election for school trustees elsewhere in the school board's area of jurisdiction;
- resides in the local municipality or territory or is the owner or tenant of a residential property, or is the spouse of such owner or tenant; and
- is not otherwise prohibited from voting.

To vote in an **ENGLISH-LANGUAGE PUBLIC DISTRICT SCHOOL BOARD**, an elector in addition to the above, must:

- be a supporter of the English-language public district school board; or
- not be a supporter of any board, nor have qualified him- or herself as an elector for a separate or French-language school board in the election.

To vote in an **ENGLISH-LANGUAGE SEPARATE DISTRICT SCHOOL BOARD**, an elector must be a Roman Catholic who must:

- qualify as an elector for the English-language separate district school board; or
- be a supporter (or be the spouse of a supporter) of the English-language separate district school board.

To vote in a **FRENCH-LANGUAGE PUBLIC DISTRICT SCHOOL BOARD**, the elector must be a French-language rights holder (see ss. 23(1) and (2) of the Canadian Charter of Rights and Freedoms for criteria) who must:

- qualify as an elector for the French-language public district school board; or
- be a supporter (or the spouse of a supporter) of the French-language public district school board.

To vote in a **FRENCH-LANGUAGE SEPARATE DISTRICT SCHOOL BOARD**, an elector must be a Roman Catholic and a French-language rights holder (see the Charter for criteria ) who must:

- qualify as an elector for the French-language separate district school board; or
- be a supporter (or the spouse of a supporter) of the French-language separate district school board.

### **Ineligible Voters in a School Board Election**

The following cannot vote in a school board election:

- a person serving a sentence of imprisonment in a penal or correctional institution;
- a corporation; or
- a person convicted of a corrupt practice for an election held within four years of voting day.

A person who is acting as an executor or in any other representative capacity (e.g., power of attorney), cannot vote on behalf of the person they are representing unless they have been appointed as a voting proxy.

### **Proxy Voting**

An elector in a municipality may appoint another person similarly qualified as an elector as his or her voting proxy, using the prescribed form. (Form 3)

A person cannot:

- appoint more than one (1) voting proxy; or
- act as a voting proxy for more than one other person. This restriction does not apply if the appointed proxy and the other person are spouses or siblings of each other, parent and child, or grandparent and grandchild.

A person who has been appointed a voting proxy must:

- complete an application in the prescribed form, including a statutory declaration that he or she is the person appointed as a voting proxy; and
- present the application and the appointing document to the clerk, in person, at the clerk's office or any place designated by the clerk.

Form 3 is available at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca).

### **Issuance of Proxies**

Proxies cannot be appointed before the end of the nomination period.

### **Proxy Voting Process**

A person may vote as a proxy once, if:

- the appointing document, as certified by the clerk, is submitted to the deputy returning officer; and
- he or she has taken the prescribed oath.

**NOTE:** The requirement to show identification prior to receiving a ballot also applies to a person voting as a proxy.

If a municipality has implemented a system of alternative voting, such as vote-by-mail, proxy voting may not be available.

## **Frequently Asked Questions – Proxy Voting**

### **Can I be a proxy for a non-relative and a family member at the same time?**

No. However, you may be a proxy for more than one family member at the same time, provided the family member is your spouse, sibling, parent, child, grandparent or grandchild.

## **Alternative Voting**

The *Municipal Elections Act, 1996* permits municipalities to use alternative voting methods such as vote-by-mail or telephone. To do so, council must pass a by-law authorizing the use of such methods. Municipalities may also pass by-laws permitting the use of vote-counting equipment.

Where a municipality uses automated voting devices to facilitate voting or the counting of ballots or an alternative method of voting, the clerk shall establish the forms and procedures for the use of the voting and vote-counting equipment and any alternative voting. The clerk shall provide a copy of the forms and procedures to candidates.

The procedures established by the clerk, if they are consistent with the principles of the *Municipal Elections Act, 1996*, prevail over anything in the Act and the regulations. Bylaws and procedures must be in place by June 1 of the election year.

## **Contributions to Campaigns and Rebates**

Campaign contributions may be in the form of money, goods or services. Contributions may be made by an individual who resides in Ontario, a corporation that does business in Ontario, or a trade union that represents employees in Ontario. A person does not have to be an eligible elector in order to contribute to a campaign.

### **Campaign Contributions to Candidates**

Campaign contributions can only be made to nominated candidates.

The contributions maximum is \$750 per candidate, except for the office of mayor of the City of Toronto, which is \$2,500.

The maximum total amount a contributor may contribute to candidates in the same jurisdiction is \$5,000. Each municipal council and each school board is a separate jurisdiction.

#### **Example**

A person who contributes \$2,500 to a mayoral candidate in the City of Toronto, and \$750 to each of three candidates running for council, will have a total contribution of \$4,750. They may contribute a maximum of \$250 to any other candidate running for Toronto council.

The maximum applies separately to each municipal council and each school board. The person above may still contribute up to \$5,000 total to candidates running for the Toronto District School Board (for example), or to candidates running for council in a different municipality.

Contributions must be made with the contributor's own money. Contributions can only be received by candidates or persons authorized by the candidate. Contributions in excess of \$25 may not be made in cash. Contributions must not be made anonymously.

## **Contributions to Campaigns in Respect of Questions on the Ballot**

An individual, corporation, or trade union eligible to make contributions may register as a 'yes' or 'no' proponent if spending money on a campaign regarding a question on the ballot. Once registered they may accept maximum contributions of \$750 from each person or entity.

## **Contributions that Count toward the Contribution Limits**

A contributor who exceeds the individual or aggregate contribution limit may be subject to a fine or other penalty. The following count toward the contribution limits:

- monetary contributions to a candidate's campaign;
- the value of goods and services donated to a candidate's campaign, including goods and services donated to a fundraising function;
- if goods and services are offered to the candidate at less than fair market value, the difference between fair market value and what the candidate paid;
- the price of admission to a campaign fundraising function;
- if a good or service is purchased at a fundraising function for more than fair market value (for example, during a silent auction), the difference between fair market value and what the contributor paid.

## **Contributions that do not Count toward the Contribution Limits**

- contributions by the candidate or the candidate's spouse to the candidate's campaign;
- contributions made to a registrant for a question on the ballot;
- contributions of \$10 or less made at a fundraising function.

## **Reporting of Contributions**

Candidates are required to include the name and address of each contributor who contributes more than \$100 in total to their campaign in their campaign finance statement. This document must be filed with the clerk after the election, and is a public document.

Clerks are required to make campaign finance statements available to the public in an electronic format free of charge.

## **Contribution Rebates**

A municipality, by by-law, or a school board, by resolution, may provide for rebate payments to individuals, trade unions or corporations. Municipalities or school boards which establish rebate programs also determine the conditions of entitlement to collect a rebate.

## **Frequently Asked Questions – Contributions**

### **Do all municipalities give contribution rebates?**

No, each municipality determines if it is to establish a rebate program.

### **Can I contribute more than \$750 to one candidate?**

No, a maximum contribution of \$750 can be made to one nominated candidate, except for the office of mayor for the City of Toronto, for which the contribution limit is \$2,500.

### **Can I contribute to more than one candidate?**

Yes, you may make contributions to more than one candidate. However, your contributions to candidates running for office on the same council or the same school board may not exceed more than \$5,000.

### **NEW FOR 2010**

A contributor is limited to a maximum of \$5,000 in total contributions to candidates running for office on the same council or board. Contributors who exceed this limit may be liable to penalties under the *Municipal Elections Act, 1996*.

The clerk is required to make candidates' financial statements available to the public in an electronic format free of charge.

## **Voters' List**

The Municipal Property Assessment Corporation (MPAC) compiles the preliminary list of electors and sends it to municipal clerks by July 31 in an election year, or an alternate date agreed to by the clerk and MPAC.

Each clerk revises the list and may do so until the end of voting on voting day.

In revising the list, clerks may use information already held by a municipality, such as registration for recreation programs.

## **Notification**

The clerk must provide notice to voters, in a manner of the clerk's choosing, of the following information:

- location of voting places;
- dates and times on which voting places will be open for voting;
- where voting proxies are available and how electors may use voting proxies; and
- where alternative voting has been authorized by by-law, how electors may use the alternative voting method.

## **Getting on the Voters' List**

If an eligible voter is not on the voters' list, she/he may, beginning on Tuesday, September 7, 2010:

- fill out an application and file it with the clerk by mail or in person; or
- on voting day, fill out an application at the place of voting.

The clerk may require identification from the voter in order to add the voter to the voters' list.

## **Copies of the Voters' List**

Voters' lists are available to candidates and those registered for a question on the ballot upon written request. Information on electors entitled to vote for the candidate's relevant office must be provided. Voters' lists may only be used for election purposes.

## **Voting**

### **Voting Process – Traditional, In-Person Voting at a Voting Place**

Clerks must ensure that each voting place is accessible to electors with disabilities.

An elector who is on the voters' list must show identification confirming their identity and place or residence in order to receive a ballot. Photo ID is not required.

If an elector who is on the voters' list does not have acceptable identification, they may make a statutory declaration that they are the person on the voters' list in order to receive a ballot.

An elector who is not on the voters' list must follow the procedures put in place by the clerk to get on the list. These procedures may require the elector to show

identification. Contact your municipal clerk to determine what is required to get on the voters' list.

### **Voting Process – Alternative Voting**

Each municipality can determine whether it will use alternative forms of voting such as vote-by-mail or Internet voting. The municipal clerk will determine what forms of identification may be required in order to cast a ballot. These decisions must be made by June 1 of the election year.

For information on whether your municipality is using alternative voting, and what the voting process will be, contact your municipal clerk.

## **Frequently Asked Questions – Voting**

### **What is a permanent residence for voting purposes?**

The following rules determine residence for voting purposes:

- an elector may only have one permanent residence;
- the place where an elector's family resides is his or her permanent residence, unless the elector moves elsewhere with the intention of changing his or her permanent lodging place;
- if an elector has no other permanent lodging place, the place where he or she occupies a room or part of a room as a regular lodger or to which he or she habitually returns is considered a permanent residence; or
- whenever absent, the permanent lodging place to which the elector intends to return.

### **Can a person in jail vote?**

A person in jail, under sentence of imprisonment, is not entitled to vote.

### **If I do not have, or forget to bring, identification, will I be able to vote?**

An elector who is on the voters' list but does not have the required identification may vote after signing a statutory declaration that they are the person shown on the list. A person who is not on the voters' list may be required to show identification in order to get onto the list.

## **NEW FOR 2010**

Municipalities may use information held by the municipality to revise and update the voters' list.

All voting places must be accessible to electors with disabilities.

Electors voting at a voting place must show identification prior to obtaining a ballot.

## **Election Finances**

Candidates are required to keep complete and accurate financial statements during the course of their campaigns.

All contributions and expenses are to be accounted for and disclosed by the candidate on the relevant prescribed financial form(s).

## **Contributions**

Campaign contributions are monies, goods or services given to a candidate for his or her election campaign.

Contributions include:

- monetary contribution;
- value of goods and services;
- the admission price for a fund-raising function;
- the difference between the amount paid and the market value of a good or service sold at a fund-raising function;
- the difference between the amount paid and the market value of a good or service purchased for the campaign; and
- any unpaid but guaranteed balance of a campaign loan.

## **Goods and Services Donated and Deemed not to be Contributions**

The following are deemed not to be contributions:

- the value of services provided by voluntary unpaid labour;
- the value of services provided voluntarily by employees of an entity as long as they do not receive extra compensation from their employer;
- an amount of \$10 or less that is donated at a fund-raising function;
- the value of free political advertising provided it is in accordance with the *Broadcasting Act (Canada)* and is made available to all candidates; and
- the amount of a campaign loan obtained by the candidate or the spouse of the candidate.

## **Timing of Contributions**

Contributions can be solicited by or accepted on behalf of a person seeking local government office once he or she has become a candidate (i.e., filed the nomination form). Any contributions received outside the campaign period that cannot be returned to the contributor and any anonymous contributions must be turned over to the clerk.

Candidates must make reasonable efforts to satisfy themselves that the contributor is entitled to make contributions.

## **Contribution Disclosure**

Contributions accepted by the candidate must be reported in the financial statement to be filed with the clerk by the candidate, which includes:

- the total amount of any funds raised for a candidate at a fundraising function such as a dinner, dance, garden party or other event; and
- the name and address of any contributor who made a total aggregate contribution, including the value of goods or services, exceeding \$100.

The financial statement is a public document. Clerks are required to make all financial statements available in an electronic format free of charge.

## **Eligible Contributors**

Eligible contributors are:

- individuals living in Ontario;
- corporations that carry on a business in Ontario;
- unions that hold bargaining rights for employees in Ontario; and
- a candidate and his or her spouse.

Not all businesses meet the legal definition of a “corporation.” LLPs and organizations such as ratepayers groups may not be eligible to contribute to a candidate’s campaign.

**NOTE:** The City of Toronto, by by-law, bans corporate and trade union donations.

## **Ineligible Contributors**

The following individuals and organizations may not contribute to a municipal campaign:

- a federal political party, constituency association or a registered candidate in a federal election;
- a provincial political party, constituency association or a registered candidate or leadership contestant; and
- a federal or provincial government, a municipality or school board.

## **Contribution Limit**

The limit on contributions donated in money, goods or services from any individual, corporation or trade union is \$750 to any one candidate, regardless of the number of offices the candidate was nominated for during the election period. The limitation applies whether the contribution consists of one large donation or is the total of a number of smaller contributions of money, goods or services from the same contributor or from related companies.

The limit on contributions to a candidate for the office of mayor of the City of Toronto is \$2,500. All other rules on contributions remain the same for the office of mayor as for other candidates.

The maximum total amount a contributor may contribute to candidates in the same jurisdiction is \$5,000. Each municipal council and each school board is a separate jurisdiction.

### **Example**

A person who contributes \$2,500 to a mayoral candidate in the City of Toronto, and \$750 to each of three candidates running for council, will have a total contribution of \$4,750. That person may contribute a maximum of \$250 to any other candidate running for Toronto council.

The maximum applies separately to each municipal council and each school board. The person above may still contribute up to \$5,000 total to candidates running for the Toronto District School Board (for example), or to candidates running for council in a different municipality.

## **Candidate's Own Funds**

A candidate may contribute to his or her own campaign regardless of whether the candidate normally resides in Ontario.

There is no limit on contributions from a candidate or his or her spouse to the candidate's campaign, but they are considered to be a contribution and must be reported as such and a receipt must be issued. Contributions to a candidate's (or spouse's) own campaign do not count toward the \$5,000 limit.

If a campaign ends in a surplus, a candidate may withdraw from the campaign surplus the value of the candidate's contribution.

## Contribution Receipts

If receiving a contribution of goods and/or services, the value of the contribution must be established and a receipt given for the full value.

Before issuing a receipt for a contribution that is received by cheque, the candidate should ensure that the cheque is honoured at the bank and, if the contribution is:

- from an individual, ensure the contributor meets the requirement of being a resident in Ontario and that the receipt is made out in the contributor's name;
- from a corporation, ensure that it meets the requirement of carrying on a business in Ontario (and that it meets the definition of a corporation); or
- from a trade union, including central, regional or district labour councils, ensure that the union has bargaining rights in Ontario for its members.

Because a contribution can only be made by one individual, if a cheque for a contribution is drawn from a joint personal bank account, the receipt must be issued only to the person who signed the cheque. Where two people have signed a cheque drawn from the joint personal account, the candidate must determine who made the contribution and issue the receipt to that person.

## Contribution Refunds

Where a candidate learns a contribution has been made or accepted in contravention of any provision of the *Municipal Elections Act, 1996*, the candidate must return the contribution. If the contribution cannot be returned it must be paid to the clerk.

Contribution refunds should be returned to the contributor or paid to the clerk, where the contribution is:

- made outside the candidate's campaign period;
- from anonymous sources (except "pass the hat" collections);
- from ineligible sources (e.g., individuals not residents of Ontario or from a business or organization that is not a corporation);
- in excess of the \$750 limit or the \$5,000 total limit;
- a cash contribution in excess of \$25; or
- from funds not belonging to the contributor.

## Helpful Hints

- Since it will be impossible to determine in advance whether the total contributions from any one contributor will exceed the limit of \$750, the candidate should record the name and address of each contributor and the amount contributed.

- Contributions received:
  - in an envelope postmarked prior to the end of the campaign period but received after the campaign period; or
  - on the last day of the campaign period which cannot be deposited because the financial institution where the account is held is closed,should be recorded in the accounting records as an outstanding bank deposit on the last day of the campaign period and receipts issued as of that date. Each outstanding bank deposit should be deposited on the next available banking day.
- When it is necessary to issue a replacement receipt, the replacement receipt should include the word “Replacing” and indicate the serial number of the original receipt being replaced. All details on the replacement receipt should be the same as those shown on the original receipt.
- To facilitate audit examination of records, duplicate deposit slips should be prepared for all bank deposits listing the names of the contributors from whom cheques, money orders and credit card vouchers were received.
- If an official receipt has already been issued, the candidate should not refund the contribution until the contributor’s copy has been recovered.

## **Frequently Asked Questions – Contributions**

### **How can contributions of cash be made?**

Cash contributions may only be accepted up to \$25; contributions more than \$25 must be made by cheque, money order or credit card.

### **How are goods and services to be valued as contributions?**

All contributions of goods or services the candidate receives are considered contributions and should be supported by an invoice from the contributor of the goods or services. The contribution must be recorded just as if it were money.

If part of the agreed upon fee for the purchase of a good or service is considered by a supplier to be a contribution, the supplier should render an account for the total amount and indicate on the statement of account the amount which he or she considers a contribution.

If a supplier charges the candidate less than the market value for the purchase of a good or service, the difference between the amount charged and the market value is a contribution.

If suppliers of goods or services are not paid or have agreed not to accept payment, such non-payment will constitute a contribution of a good or service and must be receipted as such.

**Do the value of goods and services contributed count towards the \$750 and \$5,000 contribution limits?**

Yes.

**Who can accept campaign contributions?**

Only the candidate and those persons authorized by the candidate can accept campaign contributions. Contributions can only be accepted during the campaign period and only from a person or entity entitled to make a contribution.

**How are anonymous contributions handled?**

An anonymous contribution cannot be accepted. It must be turned over to the clerk to become part of the general funds of the municipality.

The only exception to this rule is a donation received at a fund-raising function held on behalf of a candidate, e.g., “pass the hat.” Each of these donations must be \$10 or less and the total revenue from this source must be reported on the candidate’s financial disclosure form. (These donations are not considered to be contributions.)

**What are the consequences for contravention of contribution rules?**

Candidates and to individuals who are found to have contravened the *Municipal Elections Act, 1996* may face a fine of up to \$25,000 and/or up to six months in prison if the offence was committed knowingly. For corporations and trade unions the fine may be up to \$50,000.

Candidates who are found to have contravened certain provisions of the Act forfeit any office to which they were elected, and are ineligible to run until after the next regular election has taken place.

**NEW FOR 2010**

A contributor is limited to a maximum of \$5,000 in total contributions to candidates running for office on the same council or board.

Penalties for contravening the *Municipal Elections Act, 1996* have been increased. A contributor who contravenes the contribution rules may face a fine of up to \$25,000 (\$50,000 for corporations and trade unions) and/or up to six months in prison if the offence was committed knowingly. Candidates who are convicted of contravening certain provisions of the Act also forfeit any office to

which they were elected, and are ineligible to run until after the next regular election has taken place.

## Fundraising

Fundraising functions are events or activities held by or on behalf of a candidate for the primary purpose of raising money for the candidate's campaign. Such activities include dinners, dances, garden parties, etc., for which there is an admission charge, as well as auctions, button sales, etc., for which there may not be an admission charge.

A campaign event at which incidental fundraising takes place does not qualify as a fundraising function.

Fundraising functions can only be held for a candidate and only during that candidate's campaign period. The gross income (both admission revenue and other revenue) and expenses from each function must be recorded and reported on the candidate's financial disclosure form.

The price of admission to a fundraising function is a campaign contribution and a receipt must be issued for the full amount.

### Example

If a ticket for a fundraising dinner costs \$50, a receipt for \$50 must be issued and a contribution of \$50 must be recorded, regardless of the cost of organizing and holding the dinner. Where the admission price exceeds \$100, the name and address of the contributor must be reported in the financial disclosure form filed with the clerk. Should the charge for admission exceed \$25, the amount must be paid by cheque, money order or credit card.

If goods or services are offered for sale during a fundraising function at more than fair market value, or are offered by auction and sold for more than market value, the difference between the fair market value and the amount paid is considered to be a contribution and is subject to the prescribed limits.

## Expenses

The *Municipal Elections Act, 1996* contains a number of requirements regarding the incurring of expenses. Candidates should become familiar with these provisions.

Campaign expenses are those costs incurred by the candidate or on the candidate's behalf during his or her campaign. The nomination filing fee is an expense and must be reported.

Goods and services donated to the campaign are also expenses and must be reported. A receipt must be provided for fair market value.

Only nominated persons can incur expenses during their campaign period.

Payment of any campaign expense must be made by cheque drawn from the campaign account and a receipt providing the details and proof of payment must be obtained.

All expenses must be reported in the financial disclosure form (Form 4) to be filed by the candidate with the clerk.

Form 4 is available at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca).

## Spending Limits

There are limits on the amount a candidate may spend on expenses during the candidate's campaign period. Campaign expense limits are based on a formula that corresponds to the number of electors in the jurisdiction or ward in which the candidate is seeking office. There are different expense limits for heads of municipal council and for members of municipal councils and school boards.

The clerk must provide each candidate with an estimated spending limit upon filing of nomination papers. The estimate will be calculated based on the number of electors in the previous election.

Within ten days after the close of nominations, the clerk must provide each candidate with a final spending limit. The final campaign spending limit will be calculated based on the number of electors on the voters' list for the current election.

If the final limit is lower than the estimate, the higher amount becomes the candidate's official spending limit.

### **Formula to calculate the candidate's limit:**

Head of municipal council: \$7,500 plus \$0.85 per eligible elector

Member of municipal council or school board: \$5,000 plus \$0.85 per eligible elector

If the candidate is seeking office in a ward system, the number of electors in the ward will be used in the formula to calculate his or her spending limit.

## **Types of Expenses**

Unless described below, all expenses count toward the candidates spending limit.

Expense items not subject to spending limit:

- expenses incurred in holding a fundraising function;
- expenses incurred for parties and other expressions of appreciation after the close of voting;
- expenses relating to a court action for a controverted election;
- expenses relating to a recount in respect of an election;
- expenses relating to a compliance audit;
- expenses incurred by a candidate with a disability that are directly related to the disability and would not have been incurred if not for the election; and
- audit and accounting fees.

**NOTE:** Expenses related to fundraising functions are exempt from the campaign spending limit. However, in order to qualify as a fundraising function, an event must have the raising of money **as its primary purpose**. Campaign events at which incidental fundraising takes place do not qualify as fundraising functions. Similarly, a brochure promoting awareness of a candidate that contains contact information to make campaign contributions does not qualify as a fundraising function, and the expenses related to the brochure are not exempt from the spending limit.

## **Deadline for Claiming Expenses**

The campaign period ends on December 31, 2010. Candidates should request suppliers to submit bills on or before this date.

## **Campaign Inventory**

Campaign expenses include the value of any goods held in inventory by a candidate from a previous campaign and used during a campaign period.

For candidates who ran in a previous campaign, all goods from the previous campaign that are brought into the current campaign must be included in the opening inventory even if the material was not included in the closing inventory of the previous campaign.

In valuing these campaign materials, replacement value should be used. In all instances, proper documentation should be prepared to substantiate any opening inventory value.

The inventory of reusable campaign materials remaining on hand at the end of a campaign becomes the property of the candidate and must be valued and

reported as closing inventory on the financial disclosure. However, a candidate should not include in the closing inventory on the financial disclosure form any materials which cannot be reused, e.g., materials which contain dates specific to the current election. The value of any remaining inventory is not to be deducted from the campaign expenses.

### **Helpful Hints**

The candidate should determine the quantity of reusable campaign materials at the end of the campaign and the value of each item. A detailed list of reusable items and their value should be made and determined as follows:

- if on hand at the start of the campaign, use the value determined at that time; or
- if acquired during the campaign, value at invoice price.

## **Frequently Asked Questions – Expenses**

### **Who can incur a campaign expense?**

Only the candidate and persons authorized by the candidate can incur campaign expenses. Expenses can only be incurred during the campaign period.

### **What is a campaign expense?**

Any expense incurred for goods and services in relation to an election is a campaign expense.

Campaign expenses include the replacement value of any goods held in inventory by the candidate from a previous election and any contribution of goods and services to the candidate for use in whole or in part during the campaign period. Where a contribution of goods or services is received, an expense for equivalent value is considered to be incurred and must be reported.

### **NEW FOR 2010**

The nomination filing fee and interest on loans are expenses subject to the spending limit.

Expenses relating to a compliance audit are not subject to the spending limit. Expenses incurred by a candidate with a disability that are directly related to the candidacy are not subject to the spending limit.

To avoid arguments that expenses incurred in holding a fundraising function may not be exempt from the spending limit, candidates should ensure that raising money is the primary purpose of the function. Events or materials promoting the

candidate in which fundraising is incidental do not qualify as fundraising functions and are therefore not exempt from the spending limit.

## Financial Statements and Disclosures

It is the responsibility of the candidate to file a **complete** and **accurate** financial statement **on time**.

The filing deadline is the last Friday in March following the election (March 25, 2011).

The clerk must advise the candidate at least 30 days prior to the deadline of all the filing requirements of the *Municipal Elections Act, 1996* and the penalties for missing the deadline.

**NOTE:** The clerk is not required to give an additional notice for the supplementary filing date.

All nominated candidates, including those not elected, those who withdrew their nomination or those whose nomination was rejected by the clerk, must disclose and report their contributions and expenses as of **December 31, 2010** in accordance with the following:

- all candidates are required to file a detailed financial statement;
- candidates whose campaign contributions and total expenses are greater than \$10,000 must have their financial statement audited and submit the auditor's report to the clerk along with their financial statement.

Those expenses subject to spending limit and those excluded from the limit are both to be included in the campaign's total expenses for reporting purposes.

Financial statements (Form 4) must be filed on or before 2 p.m. on Friday, March 25, 2011. Candidates must keep all records for the term of office (i.e. until December 1, 2014), and those records should include a copy of the financial documents filed with the clerk.

Candidates who do not file a financial statement by the deadline forfeit any office to which they have been elected, and are ineligible to run in the next election.

A candidate requiring an extension to the filing deadline must apply to the Ontario Court of Justice prior to March 25, 2011. The court may grant an extension of up to 90 days.

A candidate who has applied for an extension to the filing deadline must inform the clerk that they have done so prior to 2 p.m. on Friday, March 25, 2011.

Form 4 is available at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca).

### **Separate Statement for Each Office**

A candidate must file a separate financial statement for each office he or she was nominated for during the election period. However, if the offices are on the same council or school board and are elected by a general vote of all electors of a municipality, the campaigns are deemed to be a single campaign. The financial statement must be filed by 2 p.m. on Friday, March 25, 2011.

### **Extended Campaign Periods**

The campaign period ends Friday, December 31, 2010. However, a candidate may extend the campaign period to eliminate a deficit. If so, the candidate must notify the clerk using Form 6 on or before Friday, December 31, 2010.

The campaign may be extended until June 30, 2011.

If the campaign is extended, a supplementary filing statement must be filed by 2 pm on the last Friday in September (September 30, 2011).

Candidates who have extended or re-opened their campaign and who do not file a supplementary financial statement by the deadline forfeit any office to which they have been elected, and are ineligible to run in the next election.

A candidate requiring an extension to the supplementary filing deadline must apply to the Ontario Court of Justice prior to September 30, 2011. The court may grant an extension of up to 90 days.

A candidate who has applied for an extension to the filing deadline must inform the clerk that they have done so prior to 2 p.m. on Friday, September 30, 2011.

If a campaign is extended to eliminate deficit, the March filing is to report **only up to December 31**. Any revenue and expense after that date is included in the supplementary filing which is filed either once the deficit is eliminated or on the filing date of the last Friday in September.

Form 4 is available at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca)

### **Supplementary Financial Statement**

A supplementary financial statement and auditor's report must include all the information in the candidate's initial filing, updated to reflect changes to the candidate's election campaign finances during the supplementary reporting period.

Form 4 is available at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca)

## **Filing Financial Statements**

Candidates' financial statements are filed with the clerk and are public documents. The clerk must retain the statements until the new council or school board takes office in December, 2014.

These documents may be inspected by any person upon request at the office of the clerk during normal office hours. Any person may make extracts from the documents and is entitled to copies of the documents upon payment for their preparation, at such rates as the clerk may determine. Clerks are required to make the documents available electronically, at no cost to the requester.

The information in the documents shall only be used for election purposes.

## **Surplus/Deficit**

When filing the financial statement, a candidate with a campaign surplus must pay the entire surplus to the clerk who was responsible for conducting the election.

Prior to paying over any surplus monies to the clerk, a candidate is entitled to refund any contributions made to the campaign by the candidate or his or her spouse. The amount that may be refunded is the lesser of the amount of the relevant contributions or the amount of the surplus.

## **Hold in Trust**

The clerk is required to place the candidate's surplus monies in a trust fund for use by the candidate if the candidate incurs expenses related to a recount, an application for a controverted election, or a compliance audit. If the surplus is not needed for these expenses, the surplus becomes the property of the municipality or school board.

Where a municipality passes a by-law to provide for rebates to contributors of municipal election campaigns, the municipality must still hold the surplus in trust until such time as it is no longer required for expenses related to a recount, controverted election, or compliance audit.

## **Surplus/Deficit Calculation**

The surplus (deficit) position is to be calculated as follows:

1. Determine the excess (deficiency) of income versus expenses.
2. Deduct from this amount any deficit from the immediately preceding election if the offices are in the same jurisdiction.
3. The resultant amount is the surplus (deficit) of the campaign period.

## **Accessing the Surplus for Subsequent Expenses**

A candidate who had a surplus at December 31, 2010 and who incurs expenses related to a recount, an application for a controverted election or a compliance audit after December 31, 2010 may apply to the clerk to re-open their campaign. The candidate will receive the surplus funds they had turned over to the clerk, and may accept campaign contributions until the end of the supplementary campaign period (June 30, 2011).

A candidate who incurs expenses related to a recount, an application for a controverted election or a compliance audit after June 30, 2011 may not re-open their campaign, but may apply to the clerk for the release of the surplus funds held in trust on the candidate's behalf.

The surplus funds may be used only for expenses related to a recount, an application for a controverted election or a compliance audit.

A candidate who has received their surplus from the clerk after June 30 must file a financial report (Form 5) every 90 days until,

- the surplus is exhausted;
- no further eligible expenses are incurred; or
- the candidate indicates that they will no longer be using the surplus funds.

whichever occurs earliest.

Any surplus funds remaining must be returned to the clerk, along with a final report on how the funds were spent.

**NOTE:** A candidate may not accept contributions or fundraise after June 30, 2011.

Form 5 is available at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca)

### **NEW FOR 2010**

Spending limit formula is base amount, which varies by office, plus \$0.85 cents per elector.

A candidate will receive an initial spending limit estimate when filing their nomination, and will receive a final spending limit after the close of nominations. Whichever of these two amounts is higher becomes the candidate's official spending limit.

The deadline for filing financial statements is 2 p.m. on Friday, March 25, 2011. If a candidate does not file prior to this deadline, and has not applied to the courts for an extension, the candidate forfeits any office won in the election and

is ineligible to run or be appointed to any office until after the next regular election.

A candidate who has a deficit may extend their campaign to June 30. A candidate who incurs expenses related to a recount, controverted election or compliance audit after their campaign has ended on December 31 may re-open their campaign. All campaigns end on June 30.

All surplus funds must be turned over to the clerk to be held in trust. A candidate may access his or her surplus if he or she subsequently incurs expenses related to a recount, controverted election or compliance audit.

Surplus funds not required for such expenses become the property of the municipality or school board. Surplus funds may not be carried forward for use by the candidate in a subsequent election.

## **Record Keeping/Accounting Systems**

An accounting system that meets the requirements of the *Municipal Elections Act, 1996* and suits the candidate's needs should be used.

Consulting with an auditor on an accounting system early in the campaign is advisable. This will ensure that the bookkeeping procedures to be followed are satisfactory, allowing audits to be carried out at minimum cost.

**The candidate must retain his or her financial records until the successor council or school board is organized following the next regular election.**

Records must be kept of all amounts received and paid out.

### **Audits**

For audit purposes, the candidate must retain:

- all deposit slips, showing the contributors' names;
- a record of all contributions of goods and services and their fair market value;
- a list of the names and addresses of all contributors, whether they are individuals, corporations or trade unions, and the amounts contributed by each;
- a record of all contributions returned as well as anonymous contributions paid over to the clerk;
- cancelled cheques and bank statements;
- cheque stubs on which are recorded the particulars of all payments made; and
- invoices, petty cash slips and other vouchers supporting all payments made and all goods and services contributions accepted.

In addition to records of monies received and disbursed, the following should be recorded:

- expenses incurred but not paid (accounts payable);
- amounts owing to the campaign at the end of the campaign period (accounts receivable);
- income on deposits or other investments, which has been earned but not yet received;
- expenses incurred by virtue of contributed goods and services; and
- contributions received prior to the end of the campaign period but not deposited until after the end of the period, and contributions received in the mail after the end of the period in envelopes postmarked prior to the end of the campaign period.

### **Appointment of Auditor**

A candidate whose campaign contributions **or** expenses exceed \$10,000 must appoint an auditor. Only persons licensed under the *Public Accounting Act, 2004* may be appointed to the position of auditor.

The auditor is required to make an examination and to report whether the financial statement presents fairly the information contained in the accounting records on which the financial statement is based.

### **Candidate Financial Duties – Checklist**

Every candidate must do the following:

- open a separate account at a financial institution **exclusively** for campaign purposes in the name of the candidate's election campaign;
- deposit **all** contributions **intact** into the campaign account, including contributions made by the candidate and his or her spouse;
- pay **all** campaign related expenditures from the campaign account (an exception to this rule is that the nomination filing fee will not be paid from the account, since the account cannot be used until after being nominated);
- value and record contributions of goods and services;
- issue receipts for all contributions received and obtain all receipts for all expenses incurred;
- maintain records of:
  - the receipts issued for every contribution including the acceptance date of the contribution and issuance date of the receipt;
  - the value of every contribution whether a contribution is in the form of money, goods or services;
  - the contributor's name and address;
  - all expenses, including the receipts obtained for each expense;
  - any claim for payment of an expense that the candidate disputes or refuses to pay;

- the funds raised and expenses incurred from each separate fund-raising activity;
- the monies received at fund-raising functions by donations of \$10 or less; and
- any campaign account loan.
- give proper direction to persons authorized to incur expenses and accept contributions on behalf of the candidate;
- return any improper contributions to the contributor or, if not possible, turn over the contribution to the clerk;
- pay all anonymous contributions to the clerk;
- file a financial statement. A municipality may, by by-law, permit electronic filing. Candidates should check with their local clerk to determine if the municipality permits electronic filing;
- report the surplus (deficit) of the campaign period and any contributions refunded from the surplus to the candidate or the spouse of the candidate;
- list contributors, by name, address and amount of contribution, if the contribution totalled more than \$100; and
- maintain all election finance records for the term being sought and until the new council is organized following the next regular election.

**BEST PRACTICES:**

- Store receipt forms in a secure place as they are valuable documents and should be stored in a secure place. Receipts must be signed by the candidate or his or her designate. It is good practice to have a receipt that is a multi-part form, one for the contributor and one or more for the candidate's records. Receipts should be sequentially numbered;
- Open a bank account which provides monthly statements and cancelled cheques;
- Produce duplicate deposit slips for every deposit, listing the names of the contributors and the amounts received from each; and
- Maintain a petty cash fund to handle minor expenses and obtain invoices to support all payments from the fund. At any time the cash on hand plus the total amount of invoices should equal the original amount of the petty cash fund. The fund can be replenished periodically by a cheque drawn on the campaign account in an amount equal to the total amount of the invoices.

## **NEW FOR 2010**

Financial filing forms have been revised. All candidates must now use Form 4. Please ensure you are using the most up-to-date form.

Form 4 is available at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca)

## **Penalties and Enforcement**

### **Enforcement**

#### *Candidates*

Candidates, whether elected or not, who do not file a financial disclosure form, either the initial one or, if applicable, the supplementary one, are ineligible to hold municipal office in Ontario for the period up to and including the next regular election. In addition, a candidate who files a financial statement that shows a surplus and fails to pay the amount to the clerk is also liable to penalty. A candidate who files a statement that shows that the candidate spent in excess of his or her campaign expense limit is also liable to a fine equal to the amount by which the campaign expenses exceed the expense limit for that office.

#### *Sitting Council or Board Members*

A sitting council or board member who does not file on time and has not made an application for an extension to the courts prior to the filing deadline forfeits his or her office and is barred from holding office or from running in the next municipal election.

### **Compliance Audits**

Every council and school board must appoint a compliance audit committee. Members of a compliance audit committee cannot be members of the council or school board, an employee, or a candidate in the election.

A qualified elector may apply to the compliance audit committee for a compliance audit of a candidate's financial return. The application must be in writing, and set out the elector's reasons for why they believe the *Municipal Elections Act, 1996* has been contravened. The application must be submitted to the municipal clerk or the secretary of the school board within 90 days of the filing deadline.

The compliance audit committee will consider the application and decide whether to retain an auditor to undertake a compliance audit of the candidate's financial return.

The decision of the compliance audit committee may be appealed to the Ontario Court of Justice.

If a compliance audit is undertaken, the committee will consider the auditor's report. If the compliance audit determines that there has been an apparent contravention of the Act, the committee will decide whether to proceed with legal action.

A person who believes that a candidate has contravened the Act may proceed with legal action without having first obtained a compliance audit.

## **Penalties**

The following penalties are available to the courts upon conviction:

### *Corporations/Trade Unions*

A corporation or trade union that contravenes the campaign financing provisions of the *Municipal Elections Act, 1996* is liable to a fine of up to \$50,000.

### *Individual Contributors*

An individual who makes campaign contribution that exceeds the individual or aggregate contribution limits is liable to a fine of up to \$25,000 and/or ineligibility to vote or run in the next general election and, if the offence was committed knowingly, being ineligible to run for eight years and/or up to six months imprisonment.

### *Candidates*

All of the above individual penalties plus the forfeiture of office if the offence was committed knowingly.

## **NEW FOR 2010**

Candidates who do not meet the filing deadline for campaign finance reports and who have not obtained an extension prior to the deadline forfeit any office to which they were elected, and are ineligible to run in the next election.

Penalties have been increased. Any person who contravenes the Act is liable to a fine of up to \$25,000 and/or up to six months imprisonment if the offence was committed knowingly. The fine for corporations and trade unions is increased to \$50,000.

Every council and school board must appoint a compliance audit committee.

## Questions On The Ballot

The *Municipal Elections Act, 1996* establishes rules and processes for placing questions on municipal ballots and regulates campaigns that arise in support of or in opposition to questions on the ballot.

## Who Can Place A Question On The Ballot

Those permitted to place questions on the ballot are the following:

- municipal councils;
- school boards;
- other elected local boards; and
- the Minister of Municipal Affairs and Housing.

The Minister/school board must submit a question to the clerk by the deadline of June 1.

## Processes For Placing A Question On The Ballot

### Notice of Intention

A council proposing to pass a by-law to place a question on the ballot must give notice of intention to pass a by-law at least ten (10) days before passing the by-law.

The notice must include the wording of the question and any financial implications if the result becomes binding.

### The Question

The question must relate to a matter within the jurisdiction of the municipality, must not be deemed to be of provincial interest, must be clear, concise and neutral and must be answerable by either “yes” or “no.”

Regulation 425/00 describes matters of provincial interest. Matters of provincial interest are matters where:

- the municipality requires an action by the provincial government in order to implement the results of the question;
- the municipality does not have the authority to implement all aspects of the results of the question;
- the question involves casinos and charities (see definitions in the *Ontario Lottery and Gaming Corporations Act, 1999*); or
- the question involves municipal restructuring.

## **Appeal of the Question**

The municipality must give notice within 15 days of the passage of the by-law to the electors and to the Minister.

Electors and the Minister have up to 20 days to file with the clerk an appeal as to whether the question is clear, concise and neutral or whether it can be answered by a “yes” or “no.” (Please note that the subject matter of the question cannot be appealed.)

After receiving an appeal, the clerk has a maximum of 15 days to forward the appeal to the Chief Electoral Officer of Ontario. The Chief Electoral Officer, or designate, has 60 days from the receipt of the appeal from the clerk to hold a hearing and dismiss or allow the appeal in whole or in part.

If the Chief Electoral Officer or designate allows the appeal in whole or in part, he/she may either make an amending order or direct the municipality to amend the by-law.

## **Campaign Period for a Question**

A trade union, corporation or individual must register if they intend to spend money with respect to a municipal question on the ballot. Registrants are entitled to receive a copy of the voters' list from the clerk.

Raising or spending money in support of a yes or no answer to the question cannot commence until the appeal period has expired and any appeals have been disposed of.

Contribution limits are \$750 per question from any single contributor. A financial report must be completed. **NOTE:** Contributions to a question do not count toward a contributor's \$5,000 aggregate contribution limit.

If the expenses exceed \$10,000, the trade union, corporation or individual must have their financial report audited.

Spending limit is \$0.50 per elector. Registrants will be given an estimated spending limit upon filing of the registration, and a final spending limit after nomination day. The higher amount becomes the official spending limit.

## **Results of Vote**

The results are binding on the council if at least 50 per cent of eligible electors in the municipality vote on the question.

## **Implementation**

If there is a “yes” vote, with 50 per cent or greater turnout, council must do everything in its power to implement the results of the question within a timely manner.

If there is a “no” vote, with 50 per cent or greater turnout, council may not do anything in its jurisdiction to implement the matter that was the subject of the question during the next term of office.

Results for a Minister’s question are not binding on the Legislature or government.

## **Exceptions to Implementing the Results of a Binding Question**

Conditions under other legislation must be observed prior to implementing the results of a binding question. For example, if there were a binding “yes” vote to build a community centre and a zoning change was needed, all legislation dealing with zoning changes would have to be complied with.

The question cannot eliminate or override the legal rights of any person affected. For example, if there is a vote to elect council by wards, an appeal of ward boundaries to the Ontario Municipal Board cannot be removed.

Implementation of the results of a question can be delayed or cancelled if conditions substantially change. For example, if there is a binding “yes” vote to build a community centre and the municipality experiences substantial financial difficulties, then the municipality has the option not to proceed with implementation.

## **Timeline**

Before a municipality decides to put a question on the ballot, it must determine that implementation of the answer is within its authority. If the answer is “no,” it cannot proceed.

The time period for the process of placing a question on the ballot is 190 days, commencing from when the notice of intent to pass a by-law is given. Council may require additional time prior to that date to consider the potential question.

### **190 Days before Voting Day – Sunday, April 18, 2010**

The last day the municipality can give notice of a public meeting for the passing of a by-law to place a question on the ballot. A copy must be sent to the Minister of Municipal Affairs and Housing. The notice should contain a clear unbiased explanation in plain language as to potential effects of the outcome, including any

cost implications. A description as to how to appeal the wording of the question should also be included.

**180 Days – Wednesday, April 28, 2010**

Last day for passing a by-law to submit a question to the electors. The question must be able to be answered by a “yes” or a “no.”

**165 Days – Thursday, May 13, 2010**

Last day for the clerk to give notice to the public and to the Minister that a by-law to submit a question to the electors has been passed.

**146 Days – Tuesday, June 1, 2010**

Last day for submission of a question from the Minister, school board or upper-tier municipality and for a petition to council for a question on fluoridation.

**145 Days – Wednesday, June 2, 2010**

Last date for filing an appeal to the Chief Electoral Officer as to the clarity of the wording of the question. The appeal must be filed with the municipal clerk.

**130 Days – Thursday June 17, 2010**

Last day for the clerk to forward the appeal to the Chief Electoral Officer.

**70 Days – Monday, August 16, 2010**

Last day for the Chief Electoral Officer to decide on the wording of the question.

**45 Days – Friday, September 10, 2010**

Last day for withdrawal of a question on the ballot.

**Monday, October 25, 2010 – Voting Day**

**+14 Days – Monday, November 8, 2010**

Earliest day to implement the results of the question if there is a binding “yes” vote.

**+182 Days – Monday, April 25, 2011**

Last day to implement the results of the question if there is a binding “yes” vote.

## **Frequently Asked Questions – Question On The Ballot**

### **Are citizen-initiated questions allowed on the ballot?**

No. Questions must come from either council, school boards, local boards or the Minister.

### **Can a municipality ask a non-binding question?**

No, all questions asked by the municipality have the potential to be binding. The result is non-binding if the turnout is less than 50 per cent.

## **Other Issues**

### **FREQUENTLY ASKED QUESTIONS**

#### **What are the election sign requirements?**

The *Municipal Elections Act, 1996* does not address where campaign signs may be located. The regulation of signs generally falls within the jurisdiction of the local or upper-tier municipality or, when signs are placed near a provincial highway, the Ministry of Transportation. Candidates should check with the municipal clerk to determine any sign by-law requirements.

#### **What is the term of office?**

The term of office is four years for municipal council and school board trustees. The term of office begins on December 1, 2010. The term of office for a person elected in a by-election to fill a vacancy is the remainder of the term for that office.

## **List of Forms**

Form 1: Nomination Paper

Form 2: Ballot

Form 2.1: Ballot

Form 3: Appointment of Voting Proxy

Form 4: Statement and Auditor's Report

Form 5: Financial Statement – Subsequent Expenses

Form 6: Notice of Extension of Campaign Period

Form 7: Notice of Registration (Question on the Ballot)

Form 8: Financial Statement and Auditor's Report (Question on the Ballot)

## Relevant Legislation and Regulations

Reference should always be made to the relevant legislation and regulations.

*Municipal Elections Act, 1996*

*Municipal Act, 2001*

*City of Toronto Act, 2006*

*Education Act*

The *Residential Tenancies Act, 2006* (section 28), the *Condominium Act, 1998* (section 118), and the *Co-operative Corporations Act* (section 171.24) permit candidates to access apartment buildings, condominiums, and non-profit housing co-ops to campaign.

*Legislation Act, 2006*

*Public Service of Ontario Act, 2006*

The *Constitution Act, 1982*, Part I - Canadian Charter of Rights and Freedoms

Regulation 412/00 (under the *Education Act*)

Regulation 101/97 (under the *Municipal Elections Act, 1996*)

Regulation 425/00 (under the *Municipal Elections Act, 1996*)

Regulation 4/00 (under the *Municipal Elections Act, 1996*)

Regulation 500/09 (under the *Municipal Elections Act, 1996*)

## Key Dates

Nomination and campaign period begins	January 1, 2010
Nomination day (last day to be nominated)	September 10, 2010
Final day for withdrawal of candidacy	September 10, 2010
Voting Day	October 25, 2010
Council term begins	December 1, 2010
Campaign period ends	December 31, 2010
Financial filing deadline	March 25, 2011

## **Frequently Asked Questions**

### **Can I be a proxy for a non-relative and a family member at the same time?**

No. However, you may be a proxy for more than one family member at the same time, provided the family member is your spouse, sibling, parent, child, grandparent or grandchild.

### **Do all municipalities give contribution rebates?**

No, each municipality determines if it is to establish a rebate program.

### **Can I contribute more than \$750 to one candidate?**

No, a maximum contribution of \$750 can be made to one nominated candidate, except for the office of mayor for the City of Toronto for which the contribution limit is \$2,500.

### **Can I contribute to more than one candidate?**

Yes, you may make contributions to more than one candidate. However, your contributions to candidates running for office on the same council or the same school board may not exceed more than \$5,000.

### **What is a permanent residence for voting purposes?**

The following rules determine residence for voting purposes:

- an elector may only have one permanent residence;
- the place where an elector's family resides is his or her permanent residence, unless the elector moves elsewhere with the intention of changing his or her permanent lodging place;
- if an elector has no other permanent lodging place, the place where he or she occupies a room or part of a room as a regular lodger or to which he or she habitually returns is considered a permanent residence; or
- whenever absent, the permanent lodging place to which the elector intends to return.

### **Can a person in jail vote?**

A person in jail, under sentence of imprisonment, is not entitled to vote.

### **If I do not have, or forget to bring, identification, will I be able to vote?**

An elector who is on the voters' list but does not have the required identification may vote after signing a statutory declaration that they are the person shown on

the list. A person who is not on the voters' list may be required to show identification in order to get onto the list.

**How can contributions of cash be made?**

Cash contributions may only be accepted up to \$25; contributions more than \$25 must be made by cheque, money order or credit card.

**How are goods and services to be valued as contributions?**

All contributions of goods or services the candidate receives are considered contributions and should be supported by an invoice from the contributor of the goods or services. The contribution must be recorded just as if it were money. If part of the agreed upon fee for the purchase of a good or service is considered by a supplier to be a contribution, the supplier should render an account for the total amount and indicate on the statement of account the amount which he or she considers a contribution.

If a supplier charges the candidate less than the market value for the purchase of a good or service, the difference between the amount charged and the market value is a contribution.

If suppliers of goods or services are not paid or have agreed not to accept payment, such non-payment will constitute a contribution of a good or service and must be receipted as such.

**Do the value of goods and services contributed count towards the \$750 and \$5,000 contribution limits?**

Yes.

**Who can accept campaign contributions?**

Only the candidate and those persons authorized by the candidate can accept campaign contributions. Contributions can only be accepted during the campaign period and only from a person or entity entitled to make a contribution.

**How are anonymous contributions handled?**

An anonymous contribution cannot be accepted. It must be turned over to the clerk to become part of the general funds of the municipality.

The only exception to this rule is a donation received at a fund-raising function held on behalf of a candidate, e.g., "pass the hat." Each of these donations must be \$10 or less and the total revenue from this source must be reported on the candidate's financial disclosure form. (These donations are not considered to be contributions.)

### **What are the consequences for contravention of contribution rules?**

If convicted, a fine of up to \$25,000 and/or up to six months in prison upon conviction if the offence was committed knowingly. These penalties apply both to candidates and to individuals who are found to have contravened the *Municipal Elections Act, 1996*. For corporations and trade unions the fine may be up to \$50,000.

Candidates who are found to have contravened certain provisions of the Act forfeit any office to which they were elected, and are ineligible to run until after the next regular election has taken place.

### **Who can incur a campaign expense?**

Only the candidate and persons authorized by the candidate can incur campaign expenses. Expenses can only be incurred during the campaign period.

### **What is a campaign expense?**

Any expense incurred for goods and services in relation to an election is a campaign expense.

Campaign expenses include the replacement value of any goods held in inventory by the candidate from a previous election and any contribution of goods and services to the candidate for use in whole or in part during the campaign period. Where a contribution of goods or services is received, an expense for equivalent value is considered to be incurred and must be reported.

### **Are citizen-initiated questions allowed on the ballot?**

No. Questions must come from either council, school boards, local boards or the Minister.

### **Can a municipality ask a non-binding question?**

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## **Contact Us – Municipal Services Offices**

### **Eastern Municipal Services Office**

Rockwood House  
8 Estate Lane  
Kingston ON K7M 9A8

General Inquiry: 613-548-2100 (Frontenac, Leeds & Grenville, Lennox & Addington)  
Toll Free: 800-267-9438 (Ottawa, Prescott-Russell, Prince Edward, Stormont, Dundas/Glengarry, Kawartha Lakes, Renfrew, Peterborough, Haliburton, Hastings, Lanark, Northumberland)  
Fax: 613-548-6822

### **Central Municipal Services Office**

777 Bay St. 2<sup>nd</sup> floor  
Toronto ON M5G 2E5

General Inquiry: 416-585-6226  
Toll Free: 800-668-0230  
Fax: 416-585-6882

### **Northeastern Municipal Services Office**

159 Cedar St. Suite 401  
Sudbury ON P3E 6A5

General Inquiry: 705-564-0120  
Toll Free: 800-461-1193 (Cochrane, Algoma, Manitoulin, Sudbury, Parry Sound Nipissing, Timiskaming)  
Fax: 705-564-6863

### **Northwestern Municipal Services Office**

435 James St. S. Suite 223  
Thunder Bay ON P7E 6S7

General Inquiry: 807-475-1651  
Toll Free: 800-465-5027  
Fax: 807-475-1196

### **Western Municipal Services Office**

659 Exeter Rd 2<sup>nd</sup> floor  
London ON N6E 1L3

General Inquiry: 519-873-4020  
Toll Free: 800-265-4736  
Fax: 519-873-4018

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