



MUNICIPAL ELECTIONS 2006 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 elections can be directed to:

- ◆ **your municipal clerk; or**
- ◆ **the Ministry of Municipal Affairs and Housing Municipal Services Offices**

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MINISTER'S MESSAGE

I am pleased to provide this Municipal Elections 2006 Guide for the upcoming municipal election.

Municipalities and school boards need dedicated and knowledgeable councillors and trustees. The ways to bring this about are for you to stand for office or to vote for those who do. Your decision to participate in this municipal election as a candidate or voter is important to you and your community.

The law pertaining to municipal and school board elections, the Municipal Elections Act, 1996, has remained substantially unchanged from the 2003 municipal elections, with the possible exception of one notable change.

The *Budget Measures Act, 2006*, which contained the provision for the term of office to be extended to four years, received Royal Assent on May 18th 2006. The new term will begin December 1, following this fall's municipal elections.

There are a number of potential benefits to longer terms of office. A four-year term offers more time for a council or school board to forge an agenda, implement it, and then seek the people's judgement. In addition, municipal councils and school boards will have similar time horizons to those of federal and provincial governments in which to plan for the community and implement those plans.

The Association of Municipalities of Ontario and many municipalities have requested for a number of years that the term of office for local government representatives be extended. School board associations have also said they are in favour of such reform.

This publication will serve as your guide to the electoral process for Ontario's municipal councils and school boards. It will describe your opportunities and responsibilities both as a voter and as a candidate.

I am pleased to extend my best wishes to all those who have accepted the important challenge of running for municipal or school board office.

Sincerely

Minister of Municipal Affairs and Housing

CANDIDATES

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

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

Candidates can only be nominated for one municipal office in the Province of Ontario at a time.

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. School board candidates should confirm that they have the qualifications described in s 219 of the *Education Act*.

Persons Not Eligible

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

- ◆ any person not eligible to vote in the municipality;

- ◆ an employee of a municipality or local 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 office without having to resign their current seat in Parliament. However, by 5pm on Friday, September 29, 2006 (nomination day), MPs, MPPs and Senators are required to resign their current seat should they wish to continue to seek municipal office.

NOMINATION

Nomination papers may be filed in the office of the clerk on the first day of January 2006 that municipal offices are open up until nomination day, Friday, September 29, 2006, between 9am and 5pm.

The municipal clerk must certify or reject the nomination paper by 4pm on Monday, October 2, 2006.

Nomination Process

- ◆ Obtain nomination papers from the clerk of the municipality.
- ◆ A nomination paper may be filed in person by the candidate or by an agent.
- ◆ The nomination paper may not be faxed 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 5pm on the Monday following nomination day (Monday, October 2, 2006).

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

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 is nominated for another 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.

ACCLAMATIONS AND ADDITIONAL NOMINATIONS

If, on Monday, October 2, 2006 at 5pm 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 and certified between 9am and 5pm on Wednesday, October 4, 2006, in the office of the clerk.

CHANGING OFFICES

To Same Council or Local Board

If, after filing nomination papers for an office, a candidate decides to seek election to another office on the **same** municipal council or local 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 local 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 Local Board

If, after being nominated, a candidate decides to seek election to an office on a **different** council or local 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; and
- ◆ the candidate must file two separate financial disclosures, one for each office.

NOTE: The nomination filing fee, contributions and expenses **cannot** be transferred.

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.

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 Act 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 the counting of ballots if the ballot or votes does 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.

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 may fall 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, 2006 after the election. 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.

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 Voter

A person is not entitled to be an elector on voting day, if that person is:

- ◆ serving a sentence of imprisonment in a penal or correctional institution;
- ◆ acting as an executor or in any other representative capacity, except as a voting proxy; or
- ◆ convicted of a corrupt practice for an election held within four years of voting day.

Corporations are not eligible to vote.

Number of Votes

A voter is only entitled to vote once in a municipality even if the voter has more than one qualifying property address within the municipality.

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 different municipality, provided that he or she has not abandoned the family 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, is 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 Voter

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 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 him - or herself 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 the Charter for criteria) who:

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

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

- ◆ qualifies as an elector for the French-language separate district school board; or
- ◆ is 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;
- ◆ a person acting as an executor or trustee or in any other representative capacity, except as a voting proxy; or
- ◆ a person convicted of a corrupt practice for an election held within four years of voting day.

PROXY VOTING

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

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 is the spouse or sibling 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.

Issuance of Proxies

Proxies cannot be appointed before the end of the nomination period. The first date for appointing a voting proxy is October 3, 2006.

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

FREQUENTLY ASKED QUESTIONS

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

No, you may only be a proxy for one other person, unless the proxy and the other person are spouses or siblings of each other, parent and child, or grandparent and 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.

CONTRIBUTIONS TO CAMPAIGNS AND REBATES

Campaign Contributions to Candidates

Campaign contributions can only be made to nominated candidates. Individuals, corporations and trade unions may make contributions to a candidate's campaign.

The contribution maximum is \$750 per candidate, except for the office of mayor of the City of Toronto, which is \$2,500 (s. 24, *City of Toronto Act, 1997*).

Contributions must be the contributor's own money. Contributions can only be received by candidates or persons authorized by the candidate.

Contribution Rebates

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

Contributions to Campaigns in respect to Questions on the Ballot

Electors may register as a 'yes' or 'no' candidate 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.

FREQUENTLY ASKED QUESTIONS

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 \$2500.

VOTERS' LIST

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

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

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 5, 2006:

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

Copies of Voters List

Voters lists are available to candidates 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.

NOTE: On election day a voter may be asked to provide proof of residence, citizenship or any other documentation by the deputy returning officer.

FREQUENTLY ASKED QUESTIONS

What is a permanent residence for voting purposes?

The following rules determine a permanent residence for election 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
- ◆ after an absence, 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.

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:

- ◆ 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, if that person is a candidate and only during the candidate's campaign period. 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 disclosure form to be filed with the clerk by the candidate, which includes:

- ◆ the total amount of any funds raised for a candidate at a fund-raising function such as a supper, 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.

Eligible Contributors:

Eligible contributors are:

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

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.

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 it is considered to be a contribution and must be reported as such and a receipt must be issued.

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

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 local board.

Contribution Receipts

Before issuing a receipt for a contribution 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;

- ◆ from a sole proprietorship, determine the name of the owner and issue the receipt in the owner's name, not the name of the business, as a good practice;
- ◆ from a corporation, ensure that it meets the requirement of carrying on business in Ontario;
- ◆ from a trade union, including central, regional or district labour councils, ensure that the union has bargaining rights in Ontario for its members; or
- ◆ from an individual, corporation or trade union, ensure that the receipt is made out in the contributor's name.

Contribution Refunds

Where the candidate learns a contribution has been made or accepted in contravention of any provision of the Act, the candidate must return the contribution.

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

- ◆ from outside the candidate's campaign period;
- ◆ from anonymous sources (except "pass the hat" collections);
- ◆ from ineligible sources (e.g. individuals not residents of Ontario);
- ◆ in excess of the \$750 limit;
- ◆ a cash contribution in excess of \$25; and
- ◆ 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.

- ◆ 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.

- ◆ 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 deposit should be deposited on the next available banking day.

- ◆ When it is necessary to issue a replacement receipt, write the word "Replacing" and indicate the serial number of the original receipt on the replacement receipt issued. All details on the replacement receipt should be the same as those shown on the original receipt.

- ◆ To facilitate audit examination of the 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.

What is the definition of contributions of goods and services?

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.

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.

What are the consequences for contravention of contribution rules?

A fine of up to \$5,000 upon conviction.

FUNDRAISING

Fund-raising functions are events intended to raise money for a person's election 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.

Fund-raising 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 fund-raising function is a campaign contribution and a receipt must be issued for the full amount.

Example

If a ticket for a fund-raising 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.

Any amount paid during a fund-raising function for goods or services offered for sale in excess of their fair market value is considered to be a contribution.

EXPENSES

The Act contains a number of requirements regarding the incurring of expenses. The candidate should become familiar with these provisions.

Campaign expenses are those costs incurred for goods and services by the candidate or on the candidate's behalf during his or her campaign.

There are two types of expenses, those that are subject to spending limits and those not subject to spending limits.

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.

Although each candidate will have a limit to his or her expenditures, not all expenses are subject to limits.

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

Expense Limits

Expense items not subject to limits:

- ◆ audit and accounting fees;
- ◆ interest on loans;
- ◆ legitimate expenses incurred in holding a fund-raising 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 the election; and
- ◆ the nomination filing fee.

Deadline for Claiming Expenses

The campaign period ends on Tuesday, January 2, 2007. 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 for use 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 should 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 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.

"Goods held in inventory" mean the inventory of goods retained by the candidate from any previous election and used in the current election.

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 local boards.

The clerk informs the candidate of his or her campaign spending limit by Tuesday, October 10, 2006.

A candidate may wish to use spending limits from the last election or the voters list (obtainable from the clerk in early September) to determine the **approximate** campaign spending limits in advance of receiving the official limit from the clerk.

Formula to Calculate the Candidate's Limit:

- ◆ Head of municipal council
 - \$7,500 plus \$0.70 per eligible elector

- ◆ Member of municipal council or local board
 - \$5,000 plus \$0.70 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.

FINANCIAL STATEMENTS AND DISCLOSURES

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

The clerk advises the candidate at least 30 days prior to the Monday, April 2, 2007 filing deadline of all the filing requirements of the Act.

NOTE: The clerk is not required to give additional notice for each 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 at Tuesday, January 2, 2007 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 prior to submitting it to the clerk.

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

Financial statements must be filed on or before 5 pm on Monday, April 2, 2007 for all costs and expenses up to Tuesday, January 2, 2007. Candidates must keep all records for the term of office, which should include a copy of the financial documents filed with the clerk.

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 local 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 Monday, April 2, 2007.

Extended Campaign Periods

The campaign period ends Tuesday, January 2, 2007. 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 Tuesday, January 2, 2007.

If the campaign period is **extended beyond Tuesday, January 2, 2007**, but is completed before Tuesday, July 3, 2007, then a supplementary financial statement is due by Wednesday, September 4, 2007; or

If the campaign period is **extended beyond Tuesday, July 3, 2007**, then a supplementary financial statement is due by Wednesday, September 4, 2007 and a second supplementary financial statement is due by Friday, February 29, 2008.

NOTE: The campaign period cannot be extended beyond Monday, December 31, 2007.

Supplementary Financial Statement

A supplementary financial statement or auditor's report must include:

- ◆ All the information in the initial statement or report
- ◆ All previous supplementary statement information or report updated to reflect the changes to the candidate's election campaign finances during the supplementary reporting period.

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 local board takes office after the next regular election.

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. The information obtained shall only be used for

election purposes.

Surplus/Deficit

When filing the financial statement, a candidate with a campaign surplus in excess of \$500 must pay the entire surplus to the clerk who was responsible for conducting the election. Any surplus of \$500 or less is deemed to be the candidate's own funds.

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 the spouse of the candidate. 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 in the next regular election or by-election, provided that the candidate is nominated for an office on the same council or local board as the office in which the surplus was produced. If the candidate does not seek re-election to the same jurisdiction, the surplus becomes the property of the municipality or local board.

Once a candidate has filed a nomination in a subsequent election, he or she may make a written request to the clerk to release the surplus funds being held in trust. The amount released to the candidate shall include the interest earned on the surplus while it was held in trust. The funds received from the clerk are to be deposited into the candidate's campaign bank account and are to be recorded as income in the campaign records. Surplus funds released by the clerk to the candidate may be used for election purposes only.

Where a municipality passes a by-law to provide for rebates to contributors of municipal election campaigns, the municipality may pass a by-law to have all candidate surpluses paid into the general revenue fund.

Surplus/Deficit Calculation

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

1. Determine the excess (deficiency) of income over 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.

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 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 local board is organized following the next regular election.

Records must be kept of all amounts received and paid out and the following practices should be followed:

- ◆ bank accounts provide monthly statements and cancelled cheques;
- ◆ duplicate deposit slips are made for every deposit, listing the names of the contributors and the amounts received from each;
- ◆ all payments are drawn from the campaign account;
- ◆ all invoices from suppliers and other documentation relating to expenses are retained;
- ◆ a petty cash fund to handle minor expenses is kept and invoices are obtained to support all payments from the fund. At any point in 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; and
- ◆ all amounts accepted should be deposited intact into the campaign account. If any contribution is unacceptable for any reason, the contribution should be returned before it is deposited, if possible. Undeposited cash contributions should

not be used to pay off debts or to pay for purchases.

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 Accountancy 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 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 election.

NOTE: Receipt forms 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 a 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.

PENALTIES AND ENFORCEMENT

Enforcement

Candidates

Candidates, whether elected or not, who do not file a financial disclosure form may be 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 over \$500 and fails to pay the amount to the clerk is also liable for facing penalties. A candidate who spends 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 and must return the contribution to the contributor if he or she is known or to the clerk if the contributor is not known.

Sitting Council Members

A sitting council member who does not file on time will be suspended from council without pay for a period up to 91 days. If the member has not filed by that date and the member has not been granted an extension by the courts, the member forfeits his or her office and is barred from running in the next municipal election. A member who files before the expiration of the 91 days may return to council at that time.

Audit of Campaign Expenses

A qualified elector may apply to the appropriate municipal council or school board (or delegated committee) for a compliance audit of a candidate's financial return. If the request for a compliance audit request is rejected, the individual may appeal to the Ontario Court of Justice.

Penalties

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 \$25,000.

Individual Contributors

An individual who is found guilty of contributing more than \$750 to any one candidate is liable for a fine of up to \$5,000.

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 opposition to questions on a ballot.

WHO CAN PLACE A QUESTION ON THE BALLOT

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

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

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 10 days before passing the by-law.
- ◆ The notice must include the wording of the question and any financial implications if the question 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".
- ◆ 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

- ◆ Notice must be given 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).

Appeal Process

- ◆ After receiving an appeal, the clerk has a maximum of 15 days to forward the appeal to the Chief Election Officer of Ontario.
- ◆ The Chief Election 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 Election 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

- ◆ Campaigning cannot commence until the appeal period has expired and any appeals have been disposed of.
- ◆ A trade union, corporation or individual must register if they are to spend money with respect to a municipal question on the ballot.
- ◆ Contribution limits are \$750.00 per question from any single contributor. A financial filing must be completed.
- ◆ If the expenses exceed \$10,000, the trade union, corporation or individual must have its financial filing audited.
- ◆ Spending limits are \$.50 per elector.

Results of Vote

- ◆ The results are binding if there is a 50% or greater turnout and more than 50% of the votes for the question are in favour of the results.

Implementation

- ◆ If there is a yes vote, with a 50% turnout, council must do everything in its power to implement the results of the question within a timely manner; or
- ◆ If there is a no vote with a 50% turnout, council may not implement the results of the question during the next term of office.

Exceptions to Implementing a Binding Question

- ◆ Conditions under other legislation must be observed prior to implementing 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 jurisdiction. If the answer is “no”, it cannot proceed.

The time period for the process of placing a question on the ballot is officially 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 Election day – Sunday, May 7** - 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, May 17** – Last day for passing a by-law to submit a question to the electors. The question must be able to be answered on a “yes” or “no” basis.
- ◆ **165 Days – Thursday, June 1** – Last day for the clerk to give notice to the public and the Minister that a by-law to submit a question to the electors has been passed.
- ◆ **145 Days – Wednesday, June 21** – Last date for filing an appeal to the Chief Elections Officer as to the clarity of the wording of the question. The appeal is to be filed with the municipal clerk.
- ◆ **130 Days – Thursday, July 6** – Last day for the clerk to forward the appeal to the Chief Elections Officer for Ontario.
- ◆ **73 Days – Friday, September 1** – Last day for submission of a question from the Minister, local board or upper-tier municipality and for a petition to council for a question on fluoridation.
- ◆ **70 Days – Monday, September 4** – Last day for the Chief Elections Officer to decide on the wording of the question.
- ◆ **45 Days – Friday, September 29** – Last day for withdrawal of a question on the ballot.
- ◆ **Monday, November 13** – Election day

- ◆ **+14 Days – Monday, November 27** – Earliest day to implement the results of the question if there is a binding yes vote.
- ◆ **+182 Days – Monday, May 13, 2007** – Last day to implement the results of the question if there is a binding yes vote.

FREQUENTLY ASKED QUESTIONS

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 have the potential to be binding. The question is non-binding if the turnout is less than 50%.

Do the same rules apply for questions asked by school boards, local boards and the Minister as do questions asked by a municipal council?

The rules are similar for boards and councils, except boards act by resolution rather than by by-law. There are two significant differences between questions asked by council and by the Minister. A question asked by the Minister is non-binding no matter the turnout and corporations, trade unions and individuals do not have to register to spend money with respect to a Minister's question.

RELEVANT LEGISLATION AND REGULATIONS

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

With regards to the *Tenant Protection Act, 1997* and the *Condominium Act, 1998*, candidates are permitted access to apartment buildings to campaign (s 22, TPA and s 118, CA)

Municipal Elections Act, 1996

Municipal Act, 2001

Education Act

Tenant Protection Act, 1997

Condominium Act, 1998

Interpretation Act

Public Service Act

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*)

KEY DATES

Nomination and campaign period begins	January 1, 2006
Nomination day (last day to be nominated)	September 29, 2006
Final day for withdrawal of candidacy	October 2, 2006
Election day	November 13, 2006
Council term begins	December 1, 2006

CONTACT US - MUNICIPAL SERVICE OFFICES

Eastern Municipal Services Office

Rockwood House
8 Estate Lane
Kingston ON K7M 9A8

General Inquiry: 613-548-4304 (Frontenac, Leeds & Greenville,
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Toll Free: 800-267-9438 (Ottawa, Prescott-Russell, Prince Edward,
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Haliburton, Hastings, Lanark, Northumberland)
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Toronto ON M5G 2E5

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