



## **INFORMATION FOR CANDIDATES**

### **MUNICIPALITY OF RED LAKE 2010 MUNICIPAL ELECTIONS CANDIDATE'S GUIDE**

**VOTING DAY  
OCTOBER 25<sup>TH</sup>, 2010**

The forms and documents are for information purposes only. Every effort is made to ensure this information package is timely and accurate, however, due to circumstances beyond our control, information and dates are subject to change without notice.

## **PART 1 - INTRODUCTION**

### **1. IMPORTANT DATES FOR THE 2010 VOTE BY MAIL PROCESS**

<b>January 4<sup>th</sup></b>	Nominations may be filed
<b>September 7<sup>th</sup></b>	Voters List read for public review
<b>September 7<sup>th</sup> to October 25<sup>th</sup></b>	Revision period for Voters' List
<b>September 10<sup>th</sup></b>	Nomination Day - Nominations accepted from 9:00 a.m. to 2:00 p.m.
<b>September 13<sup>th</sup></b>	Nominations to be certified or rejected by the Clerk by 4:00 p.m. List of Candidates to be posted.
<b>September 13<sup>th</sup></b>	Freeze date for changes to Voters List for DataFix
<b>September 27<sup>th</sup></b>	DataFix commences mail out
<b>October 4<sup>th</sup></b>	Ballot drop-off opens at Revision Centre (Municipal Office)
<b>October 12<sup>th</sup></b>	Voter kits may be issued to any resident not on the List/not appearing on DataFix mailing list; to any new resident, or to an elector who claims they did not receive a kit. In ALL instances, these electors are required to sign the required Declaration form in order to receive a kit.
<b>October 16<sup>th</sup></b>	Suggested final day (in Canada) to mail Voter Ballot Kits to ensure they are received by Voting Day
<b>October 25<sup>th</sup></b>	Voting Day & final day to receive ballots (until 8:00 p.m.)

### **2. ELECTED OFFICES - GENERAL**

This memorandum has been prepared for the purpose of supplying information, which will be of assistance to persons intending to stand for elected office.

Candidates for School Board offices are encouraged to contact the office of the Director of Education of the appropriate School Board to obtain information on the duties and responsibilities of a trustee. Candidates for the position of representative on the French language section of a School Board should contact the Clerk of the municipality responsible for the election of persons to that office.

It is most important to note that the contents of this document are intended only as a guide to certain provisions of relevant legislation and do not purport to recite all applicable statutory references. Prospective candidates must satisfy themselves through their own determination that they have complied with the election financing regulations and that they are in fact qualified and not disqualified by law to seek elected office.

## **ELECTED OFFICES - LIST**

The four (4) year term of office is **December 1<sup>st</sup>, 2010, to November 30<sup>th</sup>, 2014**, for the following offices:

### **Mayor**

One (1) to be elected

### **Council**

Six (6) to be elected

### **Keewatin-Patricia District School Board** (English Public Trustee)

One (1) to be elected

### **Kenora Catholic District School Board** (English Separate Trustee)

One (1) to be elected

### **Conseil Scolaire de district Catholique des Aurores Boreales** ( French Language Separate Trustee)

One (1) to be elected

### **Conseil Scolaire de Destrict du Grand Nord de L'Ontario** (French Language Public Trustee)

One (1) to be elected

The number of trustees elected in a municipality on School Boards is subject to the final determination and distribution of trustees in accordance with the *Education Act*.

## **PART II – 2010 MUNICIPAL CANDIDATES GUIDE**

(Prepared by the Ministry of Municipal Affairs & Housing)

### **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 fulfill 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 fulfill 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) (filing fee shall be paid by cash, debit card, certified cheque or money order; provide one piece of government issued photo identification and if unable to provide photo identification, two pieces of identification will be required)

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).

## **PART III – QUALIFICATIONS**

### **1. MEMBER OF COUNCIL**

#### **Eligibility - Section 256 of the Municipal Act, 2001**

256 *Every person is qualified to be elected or to hold office as a member of a Council of a local municipality:*

- (a) *who is entitled to be an elector in the local municipality under Section 17 of the Municipal Elections Act, 1996; and*
- (b) *who is not disqualified by this or any other Act from holding the office.*

### **2. ELECTOR QUALIFICATIONS (COUNCIL)**

#### **Qualifications of Electors - Section 17 of the Municipal Elections Act, 1996**

17(2) *A person is entitled to be an elector at an Election held in a local municipality if on voting date, he or she:*

- (a) *resides in the local municipality, or is the owner or tenant of land there, or is the spouse of such owner or tenant;*
- (b) *is a Canadian citizen;*
- (c) *is at least 18 years old; and*
- (d) *is not prohibited from voting under subsection (3) or otherwise by law.*

17(3) *The following persons are **prohibited from voting:***

- (a) *A person who is serving a sentence of imprisonment in a penal or correctional institution.*
- (b) *A corporation.*
- (c) *A person acting as executor or trustee or in any other representative capacity, except as a voting proxy in accordance with Section 44.*
- (d) *A person who was convicted of the corrupt practice described in subsection 90(3), if Voting Day in the current Election is less than four years after Voting Day in the Election in respect of which he or she was convicted.*

#### **Disqualification of a Member of Council - Section 258 of the Municipal Act, 2001**

258(1) *The following are not eligible to be elected as a member of a Council or to hold office as a member of a Council:*

- 1. *Except in accordance with Section (30) of the Municipal Elections Act, 1996,*
  - a) *an employee of the municipality;*
  - b) *a person who is not an employee of the municipality but who is the Clerk, Treasurer, Integrity Commissioner, Auditor General, Ombudsman or registrar referred to in Section 223.11 or an investigator referred to in subsection 239.2 (1) of the municipality, or*
  - c) *a person who is not an employee of the municipality but who holds any administrative position of the municipality.*
- 2. *A judge of any court.*

3. *A member of the Assembly as provided in the Legislative Assembly Act or of the Senate or House of Commons of Canada. (See “PART IV - NOMINATION AS A CANDIDATE” for legislation for filing of nominations).*
4. *Except in accordance with Part V of the Public Service of Ontario Act, 2006 and any regulations made under that Part, a public servant within the meaning of that Act.*

258(2) *A member of Council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she:*

- (a) *ceases to be a Canadian citizen;*
- (b) *is not a resident in the municipality; the owner or tenant of land in the municipality or the spouse of an owner or tenant in the municipality; or*
- (c) *would be prohibited under this or any other Act from voting in an Election for the office of a member of Council of the municipality if an Election was held at that time.*

### 3. **BOARD MEMBERS – QUALIFICATIONS, RESIGNATIONS AND VACANCIES**

#### **Qualification of School Board Members – Section 219 of the Education Act**

##### *Section 219*

1. *A person is qualified to be elected as a member of a district School Board or School authority if the person is qualified to vote for members of that district School Board or that school authority and is resident in its area of jurisdiction.*
2. *A person who is qualified under subsection (1) to be elected as a member of a district School Board or school authority is qualified to be elected as a member of that district School Board or school authority for any geographic area in the district School Board’s or school authority’s area of jurisdiction, regardless of which positions on that district School Board or school authority the person may be qualified to vote for.*
3. *A member of a district School Board or school authority is eligible for re-Election if otherwise qualified.*

#### **Disqualification of School Board Members – Section 219 of the Education Act**

##### *Section 219*

4. *Despite subsection (1), a person is not qualified to be elected or to act as a member of a district School Board or school authority if the person is:*
  - (a) *an employee of a district School Board or school authority;*
  - (b) *the Clerk or Treasurer or Deputy Clerk or Deputy Treasurer of a municipality or an upper-tier municipality, all or part of which is included in the area of jurisdiction of the district School Board or the school authority;*
  - (d) *a member of the Assembly or of the Senate or House of Commons of Canada;*
  - (e) *otherwise ineligible or disqualified under this or any other Act.*

5. *Despite subsection (4) a person who is:*

- (a) *an employee of a district School Board or school authority; or*
- (b) *the Clerk, Treasurer, Deputy Clerk or Deputy Treasurer of a municipality or upper-tier municipality, all or part of which is included in the area of jurisdiction of a district School Board or school authority;*

*is not ineligible to be a candidate for or to be elected as a member of a district School Board or school authority if he or she takes an unpaid leave of absence, beginning no later than the day the candidate is nominated and ending on Voting Day, in which case subsections 30 (2) to (7) of the Municipal Election Act, 1996 apply with necessary modifications.*

- 9. *A person is not qualified to act as a member of a district School Board or school authority if the person ceases to hold the qualifications required to be elected as a member of the district School Board or school authority.*
- 10. *No person shall run as a candidate for more than one seat on a district School Board or school authority and any person who does so and is elected to hold one or more seats on the district School Board or the school authority is not entitled to act as a member of the district School Board or the school authority by reason of the Election.*
- 11. *The seat of a member of a district School Board or school authority who is not qualified or entitled to act as a member of that district School Board or that school authority is vacated.*

## **PART IV - NOMINATION AS A CANDIDATE**

### **QUALIFIED AT TIME OF NOMINATION**

A person must be qualified at the time of filing the nomination as provided in *Section 29(1) of the Municipal Elections Act, 1996*. A person may be nominated for an office only if, as of the day the person is nominated:

- (a) he or she is qualified to hold that office under the Act that creates it; and
- (b) he or she is not ineligible under the *Municipal Elections Act, 1996* or otherwise prohibited by law to be nominated for or to hold the office.

Notwithstanding the above provision, some persons otherwise disqualified at the time of filing the nomination are entitled to file in accordance with Sections 29 (1.1) and (1.2) and 30 (1) of the *Municipal Elections Act, 1996*:

*29(1.1) Despite subsection (1) and despite Section 258 of the Municipal Act, 2001, Section 9 of the Legislative Assembly Act and Section 219 of the Education Act, a member of the Legislative Assembly of Ontario or the Senate or House of Commons of Canada is not ineligible to be nominated for an office in an Election by virtue of being a member of any of those bodies but, if the person is a member of any of those bodies as of the close of nominations on Nomination Day of the Election, the nomination shall be rejected by the Clerk under section 35.*

*29(1.2) Subsection (1.1) does not apply to a member of the Executive Council of Ontario or a federal Minister of the Crown.*

*30(1) An employee of a municipality or local board is eligible to be a candidate for and to be elected as a member of the Council or local board that is the employer if he or she takes an unpaid leave of absence beginning as of the day the employee is nominated and ending on Voting Day.*

In addition to these provisions in the *Municipal Elections Act, 1996*, the *Education Act* has been amended to provide for parallel changes for a candidate for a district School Board or a school authority. (See *Section 219 (5) of the Education Act*.)

### **NOMINATION PROCEDURE**

Every person who proposes to be a candidate must file nomination papers prior to receiving any campaign contributions and prior to expending any funds on a campaign. A candidate may file papers as early as January 4<sup>th</sup>, 2010 with respect to the 2010 Municipal Election.

Section 33 of the *Municipal Elections Act, 1996*

- (1) A person may be nominated for an office by filing a nomination in the Clerk's office, in person or by an agent. (Facsimile transmissions or mailed-in nomination forms will not be accepted.)
- (2) The nomination shall:
  - (a) be in the prescribed form;
  - (b) be accompanied by a declaration of qualification in the prescribed form, signed by the person being nominated; (The declaration of qualifications must be taken before a Commissioner of Oaths. The Municipal Clerk's Office can administer this declaration to you.)

- (c) *be accompanied by the prescribed nomination filing fee (\$200.00 for Head of Council position; \$100.00 for all other offices);*
  - (d) *be accompanied by a Form EFO2 - Notice of Collection / Consent to Release Personal Information.*
- (3) *If the person was previously nominated for an office on the same Council or local Board in the same Election and paid the nomination Filing Fee at that time:*
- (a) *clause (2) (c) does not apply; and*
  - (b) *for the purposes of Section 34 (refund) and paragraph 9 of subsection 67 (2) (expenses), the fee paid at the time of the earlier nomination shall be deemed to have been paid in connection with the later one.*

**TIME FOR FILING**

- (4) *The nomination may be filed:*
- (a) *between January 4<sup>th</sup>, 2010 and any day in the year of the regular Election that is before Nomination Day, at a time when the Clerk's Office is open; or*
  - (b) *on Nomination Day, between 9:00 a.m. and 2:00 p.m.*

For the 2010 Election, Nomination Day is on September 10<sup>th</sup>, 2010

**EXCEPTION FOR ADDITIONAL NOMINATIONS**

- (5) *If the number of nominations filed for an office and certified under section 35 is less than the number of persons to be elected to the office, additional nominations may be filed between 9:00 a.m. and 2:00 p.m. on the Wednesday following Nomination Day. (September 15<sup>th</sup>, 2010)*

**REFUND OF DEPOSIT**

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

Section 34 of the *Municipal Elections Act, 1996*

- (a) *withdraws the nomination under Section 36;*
- (b) *is elected to the office; or*
- (c) *receives more than the prescribed percentage of the votes cast in the Election for the office. (The prescribed percentage of the vote for the return of deposit is at least 2% of the total votes cast for the same office.)*

**CERTIFICATION OF NOMINATION BY CLERK**

Section 35 of the *Municipal Elections Act, 1996*

- (1) *The Clerk shall examine each nomination that has been filed, in accordance with the following timetable:*
- (i) *All nominations filed on or before Nomination Day shall be examined before 4:00 p.m. on the Monday following Nomination Day. (September 13<sup>th</sup>, 2010)*
  - (ii) *Any additional nominations filed under subsection 33(5) shall be examined before 4:00 p.m. on the Thursday following Nomination Day. (September 16<sup>th</sup>, 2010)*

- (2) *If satisfied that a person is qualified to be nominated and that the nomination complies with this Act (Municipal Elections Act, 1996) the Clerk shall certify the nomination by signing the Nomination Paper.*
- (3) *If not satisfied that a person is qualified to be nominated or that the nomination complies with this Act, the Clerk shall reject the nomination.*
- (4) *When the Clerk rejects a nomination, he or she shall, as soon as possible, give notice of the fact to the person who sought to be nominated and to all candidates for the office.*
- (5) *The Clerk's decision to certify or reject a nomination is final.*

Since it is the responsibility of the candidate to ensure they meet all the qualifications and file proper nomination papers, each candidate should contact the Municipal Clerk to ensure that their nomination forms are in order. Since the Clerk may examine the nomination papers after the nomination period ends and may reject them, a candidate may find that their papers have been rejected and they are too late to file additional information or provide proof to the Clerk of their qualifications. Candidates may wish to contact the Clerk of the municipality and determine the method to be used to certify nomination papers in order to prevent any misunderstanding.

## **PART V – CAMPAIGN INFORMATION (FINANCE)**

(Prepared by the Ministry of Municipal Affairs & Housing)

### **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 online.](#)

## **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 online.](#)

### **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 6 is available online.](#)

### **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 online.](#)

### **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 online.](#)

## **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 online](#).

## **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.

## **PART VI – GENERAL INFORMATION**

### **ELECTION SIGNS**

The Municipality of Red Lake does not have any by-law for signs as of January, 2010.

### **PROHIBITION OF CANVASSING IN VOTING PLACES**

The Clerk is the lessee of the premises used as voting places. As the lessee of such premises, the Clerk does not permit electioneering of any nature in or on the premises used as a voting place on Voting Day. The premise is deemed to include the entire building and the property on which it is located.

Section 48(2) of the *Municipal Elections Act, 1996* provides as follows:

*"No person shall display a candidate's election campaign material or literature in a voting place"*

Section 48(3) of the *Municipal Elections Act, 1996* provides as follows:

*"For the purpose of this section, 'voting place' includes any place in the immediate vicinity of the voting place designated by the Clerk."*

Deputy Returning Officers are instructed to remove forthwith from any voting place any material or literature of any nature, which may be deposited therein.

In view of the substantial number of school buildings used for voting purposes the attention of candidates is also drawn to the policies of the school boards and provisions of the *Education Act* which provide as follows:

- i) *No agent or representative may canvass in the schools, nor exhibit advertising material in the schools or on the school property, without the approval in writing of the Director of Education.*
- ii) *All visitors to schools must report to the office.*
- iii) *It is the duty of a principal of a school, in addition to his duties as a teacher, to maintain a visitors' book in the school when so determined by the Board.*

Thus, it should be noted from the foregoing that in connection with municipal elections, only persons attending a school building for the purpose of casting their ballot, duly qualified election officials, candidates or their authorized agents in, or going to or from the voting place, may be present on school premises.

### **ACCESS TO RENTED PREMISES BY CANDIDATE OR THEIR AUTHORIZED REPRESENTATIVES**

Section 22 of the *Tenant Protection Act* provides that:

*"No landlord shall restrict reasonable access to a residential complex by candidate for election to, any office at the federal, provincial or municipal level or their authorized representative, if they are seeking access for the purpose of canvassing or distributing election material."*

## **ACCESS TO CONDOMINIUMS BY CANDIDATE OR THEIR AUTHORIZED REPRESENTATIVES**

Section 118 of the *Condominium Act* provides as follows:

*"No corporation or servant or agent of a corporation shall restrict reasonable access to the property by candidates, or their Authorized Representatives, for election to the House of Commons, the Legislative Assembly, any office in a municipal government or school Board for the purpose of canvassing or distributing election material."*

### **DEFINITION OF RESIDENCE**

In determining the eligibility of electors one must examine the meaning of residence. Provisions exist to allow for the homeless to be enumerated and vote.

**Section 2 of the *Municipal Elections Act, 1996* reads as follows:**

- (1) *For the purposes of this Act, a person's residence is the permanent lodging place to which, whenever absent, he or she intends to return.*
- (2) *The following rules apply in determining a person's residence:*
  1. *A person may only have one residence at a time.*
  2. *The place where a person's family resides is also his or her residence, unless he or she moves elsewhere with the intention of changing his or her permanent lodging place.*
  3. *If a person 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 his or her residence.*

*Despite paragraph 1 of subsection (2), a person may have residences in two local municipalities at the same time if,*

- (a) *the person lives in one of the local municipalities in order to attend an educational institution, but not with the intention of changing his or her permanent lodging place; and*
- (b) *the person's permanent lodging place is in the other local municipality.*

**Section 3 of the *Municipal Elections Act, 1996*, reads as follows:**

*If a person has no permanent lodging place as described in subsections (1) and (2), the following rules apply in determining his or her residence:*

1. *The place to which the person most frequently returned to sleep or eat during the five weeks preceding the determination is his or her residence.*
2. *If the person returns with equal frequency to one place to sleep and to another to eat, the place to which he or she returns to sleep is his or her residence.*
3. *Multiple returns to the same place during a single day, whether to eat or to sleep, shall be considered one return.*
4. *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.*

## **ENUMERATION**

The Preliminary List of Electors for the Municipality of Red Lake is prepared by the Municipal Property Assessment Corporation and contains the names and addresses and school support of each person who is listed in the Corporation's data and who meets the qualifications of an elector. The list will be available by September 1, 2010, at the latest.

## **REVISION OF PRELIMINARY LIST OF ELECTORS**

Applications for amendments to the Voters' List will be accepted by the Clerk commencing on September 7, 2010 and ending at 8:00 p.m. on Voting Day (October 25, 2010).

Copies of the Preliminary List of Electors may be viewed at the Municipality of Red Lake Municipal Office, 2 Fifth Street, Balmertown, Monday through Friday from 8:30 a.m. to 4:30 p.m., except on holidays.

## **PROXY VOTING**

Proxy voting is not applicable at Municipal Elections where Vote by Mail is used.

## **ADVANCE VOTE**

For purposes of using the Vote by Mail system, Advance Polls are not necessary but will be deemed to be conducted as "Non-traditional" during the time the Revision Centre (located at the Municipal Office) is open.

## **VOTING DAY**

Voting Day is Monday, October 25<sup>th</sup>, 2010.

## **VOTING PLACES**

At such time as a candidate files his or her nomination paper with the Clerk, the candidate will be provided with an up-to-date copy of a list of voting places for the area in which the candidate is standing for elective office. In the event that any voting place is subsequently changed due to circumstances beyond our control, a notice of such change will be mailed to the candidates concerned.

The Municipality of Red Lake will be using the Vote by Mail system.

## **VOTING NOTICE**

The Clerk will place an advertisement in a newspaper and in the Municipal Newsletter providing notice to all residents of the Municipality of the 2010 Municipal Elections.

## **FORM OF BALLOTS**

Ballots for the election will be in the prescribed form. Composite ballots shall be used as follows:

- (a) for municipal offices: Mayor, Council;
- (b) an applicable School Board ballot according to what is on the List for each elector. School Boards may include – public and separate for either English or French Language.

## **ELECTORS ABSENCE FROM WORK**

An elector is entitled to have three consecutive hours to vote on Voting Day (October 25<sup>th</sup>, 2010). If an elector's normal hours of employment are such that they would not have three consecutive hours to attend the voting station, the employer must allow them to be absent and the absence shall be timed to suit the employer's convenience as much as possible. The employer shall not make a deduction from the employee's pay or impose any other penalty for the absence from work.

## **IDENTIFICATION REQUIREMENTS**

Each elector will be required to provide identification which shows their name, qualifying address and signature. Each elector will be required to provide either, one document from Schedule 1, or one document from each of Schedule 2 and Schedule 3.

### **SCHEDULE 1** - DOCUMENTS THAT SHOW NAME, QUALIFYING ADDRESS AND SIGNATURE

1. An Ontario driver's licence.
2. An Ontario Health Card (photo card).
3. An Ontario motor vehicle permit (plate portion).
4. A cancelled personalized cheque.
5. A mortgage, lease or rental agreement.
6. An insurance policy.
7. A loan or financial agreement with a financial institution.
8. A document issued or certified by a court in Ontario.
9. Any other document from the government of Canada, Ontario or a municipality in Ontario or from an agency of such a government.
10. Any document from a Band Council in Ontario established under the *Indian Act* (Canada).

### **SCHEDULE 2** - DOCUMENTS THAT SHOW NAME AND SIGNATURE

1. An Ontario driver's licence.
2. An Ontario Health Card.
3. An Ontario motor vehicle permit (plate portion).
4. A Canadian passport.
5. A Certificate of Canadian Citizenship.
6. A Certificate of Indian Status.
7. A Veterans Affairs Canada Health Card.
8. A social insurance number card.
9. An Old Age Security Card.
10. A credit card.
11. A debit card.
12. An employee identification card.
13. A student identification card issued by a post-secondary institution.
14. A union identification card or a professional licence card.
15. A cancelled personalized cheque.
16. A mortgage, lease or rental agreement for property in Ontario.
17. An insurance policy.
18. A document issued or certified by a court in Ontario.
19. Any other document from the government of Canada, Ontario or a municipality in Ontario or from an agency of such a government.
20. Any document from a Band Council in Ontario established under the *Indian Act* (Canada).

### **SCHEDULE 3** - DOCUMENTS THAT SHOW NAME AND QUALIFYING ADDRESS

1. An Ontario motor vehicle permit (vehicle portion).
2. An Income Tax Assessment Notice.
3. A Child Tax Benefit Statement.
4. A Statement of Employment Insurance Benefits Paid T4E.
5. A Statement of Old Age Security T4A (OAS).
6. A Statement of Canada Pension Plan Benefits T4A (P).
7. A Canada Pension Plan Statement of Contributions.
8. A Statement of Direct Deposit for Ontario Works.
9. A Statement of Direct Deposit for Ontario Disability Support Program.
10. A Workplace Safety and Insurance Board Statement of Benefits T5007.
11. A Property Tax Assessment.
12. An insurance statement.
13. A mortgage, lease or rental statement for property in Ontario.
14. A credit card, bank account, RRSP, RRIF, RHOSP or T5 statement.
15. A CNIB Card or a card from another registered charitable organization which provides services to persons with disabilities.
16. A hospital card or record.
17. A document showing campus residence issued by the office or officials responsible for student residence at a post-secondary institution.
18. A utility bill for hydro, water, gas, telephone or cable TV or a bill from a public utilities commission.
19. A cheque stub, T4 statement or pay receipt issued by an employer.
20. A transcript or report card from a post-secondary school.
21. A document issued or certified by a court in Ontario.
22. Any other document from the government of Canada, Ontario or a municipality in Ontario or from an agency of such a government.
23. Any document from a Band Council in Ontario established under the *Indian Act* (Canada).