



Candidate Information Session
2014 Municipal Election

DISCLAIMER

- The information in this presentation deals in a summarized fashion with complex matters and reflects legislation, policies and practices that are subject to change.
- This information should not be relied upon as a substitute for specialized legal or professional advice in connection with any particular matter and should not be construed as legal advice by the Ministry of Municipal Affairs and Housing. The user is solely responsible for any use or the application of this information.

OVERVIEW

- Council – Staff Role
- Nominations – Key dates and process
- Voters' list and proxy voting
- Scrutineers
- Recounts
- Eligibility to run for municipal offices
- Candidate duties
- General campaign rules and election finances
- Compliance audits and penalties
- Resources

COUNCIL – STAFF Roles at a Glance

COUNCIL

- Governing
- Policy
- Decisions
- Financial
- Evaluation

ADMINISTRATION

- Research
- Advice
- Implement
- Administrative Practices

NOMINATIONS

- Nominations could be submitted the first day the municipal office opened for business in January 2014
- Nomination day is Friday, September 12, 2014 (between 9:00 am and 2:00 pm)
- Withdrawal of nomination must be filed with clerk's office in writing before 2:00 pm on nomination day
- Clerk must certify nominations by 4:00 pm on Monday following nomination day (September 15, 2014)

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NOMINATIONS cont'd

- Candidates must complete Form 1 (nomination form) and submit to the municipal clerk with the filing fee:
 - \$200 for head of council or
 - \$100 for all other offices
- The clerk may require candidates to show proof of eligibility or fill out a declaration that the individual is eligible to run

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WITHDRAWAL OF NOMINATION

- A withdrawal must be filed with the clerk's office in writing before 2:00 pm on nomination day – Friday, September 12, 2014
- It is recommended that a candidate personally attend at the clerk's office to withdraw a nomination

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RUNNING FOR A DIFFERENT OFFICE

- Occasionally a candidate changes his/her mind and decides to run for a different office
- A candidate may only run for one office at a time
- If a candidate files a second nomination, the first nomination is deemed to be withdrawn

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RUNNING FOR A DIFFERENT OFFICE (cont'd)

- If a candidate decides to run for a different office on the same council or as a school board trustee and both are elected at large, everything from the first campaign is transferred to the second campaign
- If one or both of the offices is/are elected by ward, the two campaigns must be kept separate
- More details and other scenarios can be found on pages 4 and 5 of the Ministry of Municipal Affairs and Housing's Candidates' Guide:
<http://www.mah.gov.on.ca/AssetFactory.aspx?did=10336>

KEY DATES

- Nomination day: Friday, September 12, 2014
- Clerk must certify nominations by 4:00 pm on Monday following nomination day (September 15, 2014)
- Voting day: Monday, October 27, 2014
- Campaign period: from when nomination filed until Wednesday, December 31, 2014, unless extended to erase a deficit.
- Campaign financial statement filing deadline: Friday, March 27, 2015 at 2:00 pm
- Supplementary campaign financial filing deadline, where campaign extended, September 25, 2015 at 2 pm

VOTERS' LIST

- One copy per municipal candidate or trustee candidate (request must be made to the clerk in writing)
- Voters' list shall not be posted in a public place
- Voters' list shall not be made available to the public by posting on an internet website or via any other print or electronic medium of mass communication

VOTERS' LIST (cont'd)

- The clerk may require anyone who receives a copy of the list to sign a receipt acknowledging the list is only to be used for election purposes and any other use would be in violation of the *Municipal Elections Act, 1996*

MPAC VOTERLOOKUP.CA

- This site is owned and managed by the Municipal Property Assessment Corporation (MPAC)
- Electors can:
 - confirm the accuracy of their elector information;
 - update their information where incorrectly recorded; and/or,
 - add a name to the enumeration so that it is correctly recorded for municipal and school board voting purposes.

<https://www.voterlookup.ca/home.aspx>

VOTING PROXY FORM

- No proxy appointments can be made until nominations close
- A voter must directly appoint another eligible voter by name as his/her proxy
- A person may exercise only one proxy vote unless he/she is acting on behalf of a spouse, sibling, parent, child, grandparent or grandchild
- The prescribed proxy form must be completed by the individual giving the proxy

SCRUTINEERS

- No age restriction on scrutineers
- Must have written proof of authorization from the candidate
- Clerk may require an oath of secrecy
- During regular election process - only one candidate or scrutineer per ballot box
- No “campaigning” within the voting place
- Scrutineers are not permitted to touch ballots

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RECOUNTS

- In the event of a tie, a recount is automatic
- Otherwise:
 - council resolution to clerk passed within 30 days after clerk declares election results
 - eligible elector applies to Superior Court of Justice within 30 days after clerk declares election results
- In both instances the recount must happen within 15 days of the clerk receiving a court order or council passing a resolution to conduct a recount
- Recount must be held in the same manner as the original count

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ELIBILITY TO RUN FOR MUNICIPAL OFFICE

What are the criteria to run for municipal office?

- A resident, non-resident owner or tenant or spouse of a non-resident owner or tenant
- A Canadian citizen
- 18 years of age or older
- Not legally prohibited from voting
- Not disqualified by any legislation from holding municipal office
- Must remain qualified throughout election and if elected, throughout four year term of office

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NOT ELIGIBLE TO RUN FOR MUNICIPAL OFFICE

Who is not eligible to run for municipal office?

- Any person not eligible to vote in the municipality
- An employee of the municipality (unless a leave of absence is taken before nomination and the employee resigns if elected)
- A judge of any court
- A member of the Ontario Legislature, Senate or House of Commons
- A person who was a candidate in the previous election and did not file a campaign financial statement by the deadline

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ELIGIBILITY TO RUN FOR SCHOOL BOARD TRUSTEE

What are the criteria to run for school board trustee?

- A resident within the jurisdiction of the board
- Eligible to vote for school board election

On the day the candidate files a nomination, he/she must:

- Be a Canadian citizen aged 18 or older
- Meet any other qualifications to vote for the school board (for example – being a Roman Catholic, or hold French language rights)

NOT ELIGIBLE TO RUN FOR SCHOOL BOARD TRUSTEE

Who is not eligible to run for school board trustee?

- Any person who is not eligible to vote in the municipality
- An employee of a school board who has not taken an unpaid leave of absence
- Municipal officials
- A judge of any court
- A member of the Ontario Legislature, Senate or House of Commons
- A person who was a candidate in the previous election and did not file a campaign financial statement by the deadline

CANDIDATE DUTIES

- Campaign finance (sections 66-82 of the *Municipal Elections Act, 1996*)
- Accurate record keeping is a legislated requirement
- A campaign bank account must be opened for election campaign purposes prior to spending money or accepting contributions
- All contributions of money must be deposited in the campaign account

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CANDIDATE DUTIES (cont'd)

- All payments for expenses, except the nomination filing fee, must be made from the campaign account
- Contribution of goods or services must be valued
- Receipts must be issued for every contribution and obtained for every expense

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CANDIDATE DUTIES (cont'd)

Candidates must keep records of:

- receipts issued for every contribution (pass the hat excepted)
- value of every contribution
- whether contribution is in form of money, goods or services
- contributor's name and address
- every expense including the receipts obtained for each expense
- cheque register and cancelled cheques

All campaign financial records must be retained until December, 2018

CAMPAIGN SPENDING LIMITS

- Ontario Regulation 101/97
- Head of council: \$7500 + 85 cents per elector
- All other offices: \$5000 + 85 cents per elector
- Clerk issues two statements of the candidate's spending limit:
 - a preliminary statement upon filing of nomination
 - a final statement after close of nominations (September 22, 2014)
- The higher number is the spending limit to use
- The clerk's calculation of the spending limit is final

CONTRIBUTION LIMITS

- The limit on contributions donated in money, goods or services from any individual, corporation or trade union is \$750 to any one candidate with a maximum of \$5,000 in the same jurisdiction
- Limitation applies whether it's one large donation or is the total of a number of smaller contributions or combination of money, goods and services

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CONTRIBUTION LIMITS (cont'd)

- Each municipal council and each school board is a separate jurisdiction
- There is no limit on contributions from the candidate or their spouse to the candidate's own campaign. These contributions must be reported, a receipt written and the money deposited into the campaign account

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CAMPAIGN CONTRIBUTIONS

- Contributions can be money, goods, or services
- Cash up to \$25 only
- Over \$25 may be by cheque or money order or by a method that clearly shows where the funds originated
- Ticket price of fundraiser is a contribution
- Receipts with name, address, amount, type, date
- No anonymous contributions except for pass the hat collections (limited to \$10)

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CAMPAIGN CONTRIBUTIONS (cont'd)

Contributions can be accepted from:

- individuals who are normally resident in Ontario
- corporations that carry on business in Ontario
- unions that hold bargaining rights for employees in Ontario
- candidate and his/her spouse

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CAMPAIGN CONTRIBUTIONS (cont'd)

Contributions may not be accepted from:

- federal political party, constituency association or a registered candidate in a federal election
- provincial political party, constituency association or a registered candidate or leadership contestant
- federal or a provincial government
- a municipality
- a school board
- a business or group that is not a corporation

BORROWING

- Loan - only from bank or other recognized lending institution in Ontario and paid directly to campaign account
- Loans may only be guaranteed by candidate or a spouse

CAMPAIGN EXPENSE

A campaign expense includes:

- any expense incurred for goods and services in relation to an election
- the replacement value of any goods held in inventory from a previous election
- the equivalent value of any contribution of goods and services for use in whole or in part
- the nomination filing fee

CAMPAIGN EXPENSES EXEMPT FROM THE SPENDING LIMIT

Expenses that are not subject to the spending limit include:

- holding a fundraising event or activity
- parties and other expressions of appreciation after the close of voting
- expenses related to a recount
- any expenses after voting day

CAMPAIGN EXPENSES EXEMPT FROM THE SPENDING LIMIT (cont'd)

Expenses that are not subject to the spending limit include:

- expenses incurred by a candidate with a disability that are directly related to the disability
- audit and accounting fees
- expenses related to a compliance audit
- expenses related to a court action for a controverted election

FINANCIAL REPORTING

- Financial statement (Form 4) must be filed on or before 2:00 pm Friday, March 27, 2015
- If a candidate feels that he/she will not meet the deadline, he/she may apply to the courts for an extension* by the March 26, 2015 deadline AND must notify Clerk of this action by 2 pm on March 27, 2015 (* proof may be requested)
- Failure to file by the deadline results in automatic loss of seat, if elected, and ineligibility to hold any office to which *Municipal Elections Act, 1996* applies until after next regular election

FINANCIAL REPORTING (cont'd)

- All contributions must be reported
- The names of contributors of more than \$100 must be reported on financial statement which is a public document
- Financial statements must include an auditor's report if expenses or contributions exceed \$10,000
- Clerk is required to make financial statements available to the public in an electronic format free of charge

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FINANCIAL REPORTING (cont'd)

- A candidate running a deficit must notify the Clerk, in writing, they require a campaign extension by December 31, 2014 (Form 6)
- Campaign financial statement filing deadline: Friday, March 27, 2015 at 2:00 pm (current status of campaign)
- A candidate may also apply to the courts for an extension on financial filing by the March 26, 2015 deadline AND must notify Clerk of this action by 2 pm on March 27, 2015 (* proof may be requested)
- Supplementary campaign financial filing deadline, where campaign extended, September 25, 2015 at 2 pm (supplementary campaign activity and final status)

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SURPLUS/DEFICIT

- Entire amount of a campaign surplus must be paid to the clerk
- A candidate is entitled to refund any contributions they or their spouse made to the campaign before filing the financial statement and paying the surplus to the clerk
- The clerk places surplus monies in trust for use by the candidate for a recount, application for a controverted election or compliance audit
- If none of the above occurs, the surplus becomes the property of the municipality or school board

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SUGGESTED PRACTICES

- Ensure that receipts are stored in a secure place – they must be retained until December 2018
- Have a multi-part receipt (one for contributor, one for candidate to keep)
- Receipts should be sequentially numbered
- Bank account should provide monthly statements and cancelled cheques
- Produce duplicate deposit slips for every deposit
- Maintain a petty cash fund

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COMPLIANCE AUDITS

- Every council and school board must appoint a compliance audit committee
- Members of a compliance audit committee cannot be a candidate or a member or employee of a council or school board
- Any qualified elector may apply to the compliance audit committee for a review of a candidate's campaign finances
- The committee will consider the application and decide whether to retain an auditor

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COMPLIANCE AUDITS (cont'd)

- If the auditor's report concludes that a contravention of the Act has occurred, the committee may commence a legal proceeding against the candidate
- If the report concludes that there is no apparent contravention of the Act, the committee may determine whether there were reasonable grounds for the application
- If the committee determines that there were no reasonable grounds for the application, the council or local board is entitled to recover the auditor's costs from the applicant

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PENALTIES

In general, the following penalties are available to the courts upon conviction for an offence under the *Municipal Elections Act, 1996*:

Individual

- maximum fine of \$25,000
- up to six months imprisonment
- ineligibility to run in next general election

Candidate

- penalties listed above; plus
- fines for excess campaign expenses
- forfeiture of office if offence committed knowingly

Unions and Corporations:

- maximum fine of \$50,000

RESOURCES

- e-Laws:
 - *Municipal Elections Act, 1996*
 - *Municipal Act, 2001*
 - *Municipal Conflict of Interest Act*
 - *Education Act*
 - <http://www.e-laws.gov.on.ca>
- MMAH municipal elections website: <http://www.mah.gov.on.ca/Page219.aspx>
- Municipal World: <http://www.municipalworld.com/>

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QUESTIONS