

Municipal Elections 2010



INFORMATION PACKAGE 2010 MUNICIPAL ELECTIONS

January 27, 2010

**Finance and Corporate Services Department
City Clerk's Office
300 Dufferin Avenue
P O. Box 5035
London ON N6A 4L9
519 661-4535**



ISO REGISTERED SINCE 2000

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DISCLAIMER

The City of London Municipal Elections Office has prepared this information package for those persons seeking election or re-election for Municipal Council or School Board Trustee on October 25, 2010.

The information in this package is general in nature and candidates should refer to the *Municipal Elections Act, 1996* for specific provisions and additional information. You may obtain a copy of the Act from Publications Ontario (telephone 1-800-668-9938), or online at www.e-laws.gov.on.ca. You may also call the Elections Office at 519-661-4535 if you have any questions or concerns.

IMPORTANT NOTICE TO ALL CANDIDATES

Term of Office: This year's Municipal Election will be conducted for a term of office of December 1, 2010 to November 30, 2014.

Number of Councillors: On June 1, 2006, the *City of London Act, 2006* received Royal Assent and this legislation stipulates that there will be one Councillor elected in each of the City of London's 14 wards. This legislation will be in effect for this year's Municipal Election.

IMPORTANT DATES

JANUARY 4 TO SEPTEMBER 9, 2010	Nominations may be filed from 8:30 a.m. to 4:30 p.m., Monday to Friday, in the City Clerk's Office, Suite 308, City Hall.
SEPTEMBER 10, 2010	Nomination Day: Nominations may be filed from 9:00 a.m. to 2:00 p.m. in the Election Office, City Hall, Lobby (last day for filing nominations).
SEPTEMBER 10, 2010	Last date for a candidate to withdraw a nomination (2:00 p.m. deadline).
SEPTEMBER 13, 2010	List of candidates declared elected by acclamation to be posted (after 4:00 p.m.).
SEPTEMBER 15, 2010	Additional Nominations: In the event that sufficient nominations have not been received to fill any particular office, additional nominations may be filed from 9:00 a.m. to 2:00 p.m. in the City Clerk's Office.
SEPTEMBER 16, 2010	List of candidates declared elected by acclamation to be posted.
TO BE ANNOUNCED	Advance Polls
OCTOBER 25, 2010	Voting day: voting places are open from 10:00 a.m. to 8:00 p.m. except for specific locations, such as nursing homes, retirement homes etc, which have reduced voting hours. (Copy of by-law identifying locations and specific times will be available at a later date).
OCTOBER 26, 2010	Clerk to declare Official Results as soon as possible after Voting Day.
DECEMBER 31, 2010	End of campaign period.
JANUARY 3, 2011	Notify Clerk of a Deficit and Continuation of Campaign Period.
MARCH 25, 2011	Filing deadline for Financial Reports from all Nominated Candidates 2:00 p.m. deadline .



Offices to be Elected
City of London 2010 Municipal Elections

Municipal Offices

Office	To be elected
Mayor	1 to be elected -- city-wide
Councillor	1 to be elected in each of the City's 14 wards

District School Boards

Office	To be elected
Trustee -- Thames Valley District School Board	To be determined
Trustee -- London District Catholic School Board (English Language Separate District School Board #38)	To be determined
Trustee -- Conseil de district du Centre-Sud-Ouest (French Language Public District School Board #58)	To be determined
Trustee -- Conseil scolaire de district des écoles catholiques du Sud-Ouest (Catholic French Language District School Board #63)	To be determined

NOMINATION INFORMATION FOR CANDIDATES

Qualification and Disqualification

Member of Council

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

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.

Elector Qualification (Council)

Section 17 of the *Municipal Elections Act, 1996* - Qualification of Electors:

- 17(2) A person is entitled to be an elector at an election held in a local municipality if, on voting day, 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.
- (3) The following persons are prohibited from voting:
- 1. A person who is serving a sentence of imprisonment in a penal or correctional institution.
 - 2. A corporation.
 - 3. A person acting as executor or trustee or in any other representative capacity, except as a voting proxy in accordance with section 44 [of the *Municipal Elections Act*].
 - 4. 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.

Getting on the Voters List

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

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

Proxy Voting

Any qualified elector may appoint another person who is also a qualified elector, to vote on their behalf by completing a proxy certificate. The certificate can be picked up at London City Hall Election's Office (Lobby), 300 Dufferin Avenue. Electors can also call the Election Information Line at 519 661-4535 and a proxy form will be mailed **only** to the applicant.

Please Note: Proxy applications will only be mailed to the person applying for the Proxy. Proxy applications will not be mailed to the person who will be voting.

Proxies are available from Monday, September 13, 2010 through to voting day.

For the purpose of certifying the proxy certificates, the Clerk's office will be open:

Monday to Friday 8:30 a.m. to 4:30 p.m.

During Advance Vote:

To Be Announced

Continuous Advance Vote:

To Be Announced

The elector appointed as proxy must present both copies of the certificate **in person**, at London City Hall Election's Office (Lobby), 300 Dufferin Avenue, during the above times. Proxies must be certified **before** going to the subdivision to vote. No uncertified proxies will be issued a ballot.

An individual appointed as a proxy may not act as proxy for more than one person, except when the elector voting by proxy is a parent, grandparent, child, grandchild, brother, sister or spouse of the elector appointed as the proxy.

A person appointed as proxy may act for one other person or the specified family members, but not both and is also entitled to vote in his or her own right.

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*, an employee of the municipality or a person who is not an employee of the municipality but who is the Clerk, Treasurer, Integrity Commissioner, Auditor General, Ombudsman, or registrar or a person who is not an employee of the municipality 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.
4. Except in accordance with Part V of the *Public Service of Ontario Act 2006*, a public servant as defined in that Act.

(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, the owner or tenant of land or the spouse or of an owner or tenant of land in the municipality: in the case of a member of council of a local municipality or in a lower-tier municipality within the upper-tier municipality, in the case of a member of council or an upper-tier 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.

Qualification of School Board Members
Section 219 of the *Education Act*:

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*:

- (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) Repealed: 2002, c. 18
 - (c) 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: or
 - (e) otherwise ineligible or disqualified under this or any other Act.
- (5) Despite subsection (4), none of the following persons is 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 person is nominated and ending on voting day:
- 1. An employee of a district school board or school authority.
 - 2. 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.

Note: See subsections 219(7) and (8) of the *Education Act* for additional disqualifications for a by-election.

- (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 the 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.

Qualified at Time of Nomination

A person must be qualified at the time of filing the nomination as provided in subsection 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 this or any other Act 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 subsections 29(1.1) and (1.2) and 30(1) of the *Municipal Elections Act, 1996* which provide as follows:

- 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*, subsection 219(5) of the *Education Act* has been amended to provide for parallel leave of absence changes for a candidate for a district school board or a school authority.

NOMINATION PROCEDURES

Forms, Declarations and Fees

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, 2010 with respect to the 2010 election. A copy of the prescribed nomination form will be available in the City Clerk's office in mid-December 2009 and will be made available on line at a later date.

*** When filing nomination papers each candidate will be asked to provide identification ie. driver's license. A photocopy of this identification will be kept for verification if/when a nomination is withdrawn.**

Section 33 of the *Municipal Elections Act, 1996*:

33(1) A person may be nominated for an office by filing a nomination in the clerk's office, in person or by an agent.

Note: Facsimile transmissions or mailed-in nomination forms will not be accepted.

33(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; and
- c) be accompanied by the prescribed nomination filing fee (\$200.00 for Head of Council position; \$100.00 for all other offices).

Note: The declaration of qualifications referred to in part (b) above must be taken before a Commissioner of Oaths. The City Clerk's Office can administer this declaration for you.

33(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 Nominations

A nomination may be filed,

- (a) between January 4 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, Friday, September 10, 2010 between 9 a.m. and 2 p.m. in the Clerk's Office, Lobby.

Exception for Additional Nominations

If the number of nominations filed for an office and certified under section 35 of the *Municipal Elections Act, 1996* is less than the number of persons to be elected to the office, additional nominations may be filed between 9 a.m. and 2 p.m. on the Wednesday following Nomination Day. (September 15, 2010)

Refund of Deposit Section 34 of the *Municipal Elections Act, 1996*

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

- (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.

Note: 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*:

35(1) The clerk shall examine each nomination that has been filed, in accordance with the following timetable:

1. All nominations filed on or before nomination day shall be examined before 4 p.m. on the Monday following nomination day. (September 13, 2010)
 2. All additional nominations filed under subsection 33(5) shall be examined before 4 p.m. on the Thursday following Nomination Day. (September 16, 2010)
- (2) If satisfied that a person is qualified to be nominated and that the nomination complies with this Act, 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.

REASONS FOR CITY CLERK TO REJECT A NOMINATION

Under the *Municipal Elections Act, 1996, as amended*, the Clerk is required to reject or certify nominations of candidates. The Clerk may consider the following criteria in his or her decision to reject or certify individual nominations:

- the candidate has refused or declined to provide proof of qualification or identification suitable to the Clerk;
- the candidate does not satisfy subsection 29(1) of the *Municipal Elections Act, 1996, as amended*, (the candidate is qualified to hold office, is not ineligible under the *Municipal Elections Act, 1996, as amended*, or is not otherwise prohibited by law from being nominated);
- the nomination form is not complete in its entirety or the prescribed filing fee has not been paid; or
- the necessary financial statement was not filed for any office in the previous regular election or any new election in which the individual may have been a candidate.

There may be other circumstances in which a candidate is disqualified from being nominated or elected other than those identified above.

It is the responsibility of each candidate to ensure they are not disqualified from being nominated for the office. Every candidate is required to complete a Declaration of Qualification on the nomination form and an additional Declaration provided by the Clerk (see Attachment 2).

Note: 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 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. If nomination papers are filed early it will assist the Clerk in certifying the papers before nominations close.

CAMPAIGN CONTRIBUTIONS AND EXPENSES

The *Municipal Election Act, 1996* as amended, imposes limitations on the expenses for candidates in municipal elections and also imposes requirements on candidates to report the contributions received and the manner in which funds have been expended.

CAMPAIGN CONTRIBUTIONS AND REFUNDS

What is a campaign contribution?

A contribution means money, goods and or services given to and accepted by or on behalf of a person for his or her election campaign and includes the following:

1. an amount charged for admission to a fund-raising function;
2. if goods and services are sold at a fund-raising function for more than their market value, the difference between the amount paid and market value;
3. if goods and services used in a person's election campaign are purchased for less than their market value, the difference between the amount paid and market value; and
4. any unpaid but guaranteed balance in respect to a loan.

The following amounts are not considered contributions:

1. the value of services provided by voluntary unpaid labour;
2. the value of services provided voluntarily, under the person's direction, by an employee whose compensation from all sources for providing them does not exceed the compensation the employee would normally receive for the period the services are provided;
3. an amount of \$10 or less that is donated at a fund-raising function;
4. the value of political advertising provided without charge on a broadcasting undertaking as defined in section 2 of the *Broadcasting Act (Canada)*, if

- (i) it is provided in accordance with that Act and the regulations and guidelines made under it, and
 - (ii) it is provided equally to all candidates for office on the particular council or local board; and
5. the amount of any loan under section 75 of the *Municipal Elections Act, 1996*.

When do you refund contributions?

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

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

1. from outside the candidate's campaign period;
2. from anonymous sources (except "pass the hat" collections);
3. from ineligible sources (e.g. individuals not residents in Ontario);
4. in excess of the \$750 limit;
5. a cash contribution in excess of \$25; and
6. from funds not belonging to the contributor.

What is the value of goods and services donated as contributions?

The value of goods and services provided as a contribution is the lowest amount that the contributor or business supplying similar goods and services charges to the public in the same market area at the same time.

What is fundraising?

Fund-raising functions are events intended to raise money for a person's election campaign. Such activities include dinners, dances, garden parties, etc. for which there is an admission charge, as well as auctions, button sales, etc. for which there may not be an admission charge.

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

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

Example

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

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

When may a candidate conduct fund-raising and incur campaign expenses?

The *Municipal Elections Act, 1996* prescribes that:

- 68(1)
- 1) The election campaign period begins on the day he or she files a nomination for the office under section 33.
 - 2) The election campaign period ends on December 31 in the case of a regular election and 45 days after voting day in the case of a by-election.
 - 3) Despite rule 2, the election campaign period ends,
 - a. on the day the nomination is withdrawn under section 36 or deemed to be withdrawn under subsection 29(2), or
 - b. on nomination day, if the nomination is rejected under section 35.
 - 4) Despite rules 2 and 3, if the candidate has a deficit at the time the election campaign period would otherwise end and the candidate notifies the clerk in writing on or before December 31 in the case of a regular election and 45 days after voting day in the case of a by-election, the campaign period is extended and is deemed to have run continuously from the date of nomination until the earliest of,
 - (i) the following June 30, in the case of a regular election
 - (i.1) the end of the six month period following the 60th day after voting day in the case of a by-election,
 - (ii) the day he or she is nominated in a subsequent election for an office on the council or local board in respect of which the deficit was incurred,
 - (iii) the day the candidate notifies the clerk in writing that he or she will not accept further contributions, and
 - (iv) the day A equals the total of B and C, where,
 - A = any further contributions,
 - B = the expenses incurred during the extension of the election campaign period,
 - C = the amount of the candidate's deficit at the start of the extension of the election campaign period.
- In some circumstances, such as recounts or controverted elections, the campaign period may be recommenced, see section 68 of the *Municipal Elections Act, 1996*.

- The Clerk shall give notice of all of the filing requirements, be registered mail, to every Candidate at least thirty (30) days before the filing date. The Clerk is also required to give notice of the penalties in regard to filing financial documents.

In the event of a recount, a candidate's campaign period could be affected. (See subsection 68(5) of the *Municipal Elections Act, 1996*, as amended, for details)

What are the responsibilities of the candidate with respect to campaign finances?

It is the responsibility of the candidate to ensure that:

1. One or more campaign accounts are opened at a financial institution and that they are exclusively for the purposes of the election campaign and in the name of the candidate's election campaign;
2. All contributions of money are deposited into the campaign accounts;
3. All payments for expenses except for a nomination filing fee, are made from the campaign accounts;
4. All contributions of goods or services are valued;
5. Receipts are issued for every contribution and obtained for every expense;
6. Financial filings are made as required by the *Municipal Elections Act, 1996*, as amended;
7. Proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions on behalf of the candidates;
8. Any contributions of money in contravention of the *Municipal Elections Act, 1996*, as amended, are returned to the contributor as soon as possible after the candidate becomes aware of the contravention (such contributions that are not returned to the contributor must be paid to the City Clerk);
9. Any anonymous contribution is paid to the City Clerk; and
10. Records are kept of the following:
 - (a) receipts issued for contributions, the value of every contribution, whether a contribution was in the form of money, goods or services, and the contributors names and addresses;
 - (b) every expense, including the receipts obtained for each expense;
 - (c) any claim for payment of expenses that the candidates disputes or refuses to pay;
 - (d) the gross income from a fund-raising function and gross amount of money received at a fund-raising function by donations of \$10 or less; and
 - (e) any loan and its terms.
11. The records described in clause 10 are retained for the term of office of the Council or local Board and until their successors are elected and the newly elected Council or local Board is organized.

Who can make and receive contributions?

Contributions can only be made to candidates who are nominated. It is illegal to make a contribution to a candidate who is not nominated.

The following may make contributions:

1. An individual who is normally a resident of Ontario.
2. A corporation that carries on business in Ontario.
3. A trade union that holds bargaining rights for employees in Ontario.
4. A candidate and his or her spouse.

Note: If not normally resident in Ontario, a candidate and his or her spouse may make contributions only to the candidate's election campaign.

Who cannot make contributions?

The following are prohibited from making a contribution:

1. a federal political party, a federal constituency association or a candidate at a federal election endorsed by a party;
2. a provincial political party, constituency association, registered candidate or leadership contestant; registered under *Election Finances Act*; and
3. the Crown in right of Canada or Ontario, a municipality or local board
4. charitable organizations or corporations that have been established for charitable purposes within the meaning of the *Income Tax Act (Canada)*; and
5. public corporations, such as public hospitals, crown agencies, boards of commissions, which are, in general, prohibited by statute or common law from making political contributions.

What limits are there on contributions?

Contributions under \$25.00 may be made in cash. Any contribution over that amount must not be cash. No contributor may contribute in excess of \$750.00 to any one candidate in an election and no more than \$5,000 to two or more candidates for office on the same council or local board. There are no limits on the amount a candidate or his or her spouse may contribute to the candidate's own campaign.

No person shall make contributions of money that do not belong to the contributor with the exception of loans granted by a lending institution.

What restrictions are there on fund-raising events?

The legislation prohibits fund-raising functions for persons who are not nominated. In addition, fund-raising events can only be held during a candidate's campaign period.

Can I borrow money for my campaign?

A candidate or their spouse may borrow money for their campaign from any bank or other recognized lending institution in Ontario. The money must be paid in to the candidate's election account. No person other than the candidate or their spouse may guarantee the loan.

Helpful Hints

1. 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.
2. 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.
3. Unincorporated groups, such as a law partnership, may contribute to a candidate's campaign, however the candidate should:
 - a. request a list of the names and addresses of the individual contributors that shared in the contribution and the amount contributed by each individual;
 - b. issue receipts to the individual contributors, not the unincorporated group. The individual's portion of the group's contribution counts toward that individual's campaign contribution limit of \$750; and
 - c. report these contributions on the candidate's financial disclosure in the same manner as contributions.
4. Contributions received:
 - a. in an envelope postmarked prior to the end of the campaign period but received after the campaign period; or
 - b. on the last day of the campaign period which cannot be deposited because the financial institution where the account is held is closed,should be recorded in the accounting records as an outstanding bank deposit on the last day of the campaign period and receipts issued as of that date. Each outstanding deposit should be deposited on the next available banking day.
5. When it is necessary to issue a replacement receipt, write the word "Replacing" and indicate the serial number of the original receipt on the replacement receipt issued. All details on the replacement receipt should be the same as those shown on the original receipt.
6. To facilitate audit examination of the records, duplicate deposit slips should be prepared

for all bank deposits listing the names of the contributors from whom cheques, money orders and credit card vouchers were received.

7. If an official receipt has already been issued, the candidate should not refund the contribution until the contributor's copy has been recovered.

CAMPAIGN EXPENSES

Expenses are considered to be costs incurred for goods and services by or on behalf of a person wholly or partly for use in his or her election campaign and, without restricting the generality of the foregoing, includes the following:

1. the replacement value of goods retained by the person from any previous election and used in the current election;
2. the value of contributions of goods and services;
3. audit and accounting fees;
4. interest on loans;
5. the cost of holding fund-raising functions;
6. the cost of holding parties and making other expressions of appreciation after the close of voting;
7. expenses relating to a recount;
8. expenses relating to contravened elections
- 8.1 expenses relating to a compliance audit
- 8.2 expenses that are incurred by a candidate with a disability, and would not have been incurred but for the election to which the expenses relate.
9. the nomination filing fee.

It should be noted that under the *Municipal Elections Act 1996* section 76(5) the expenses in points 3 and 5 to 8.2 above are excluded from the maximum campaign expenses calculated in section 76 (4) of the *Municipal Elections Act 1996*.

Campaign expenses may only be incurred after a candidate is nominated and must only be incurred by the candidate or on behalf of the candidate. It is the responsibility of the candidate to ensure that copies of the receipts are kept for all expenses.

Note: In certain circumstances campaign expenses from a previous election must be included as expenses for the 2010 election. (see the *Municipal Elections Act, 1996*, subsection 67(3) for details).

What is campaign inventory?

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

For candidates who ran in a previous campaign, all goods from the previous campaign that are brought into the current campaign should be included in the opening inventory even if the

material was not included in the closing inventory of the previous campaign.

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

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

When is the deadline for claiming expenses?

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

What limits are put on campaign spending?

The *Municipal Elections Act, 1996*, as amended provides that the Minister of Municipal Affairs and Housing will prescribe the campaign spending limits. The maximum amount of campaign expenses set by the Minister is:

1. in the case of the office of head of council of a municipality, a total amount of,
 - (a) \$7,500, plus
 - (b) 85 cents for each elector entitled to vote for the office, and
2. in the case of any other office, a total amount of,
 - (a) \$5,000, plus
 - (b) 85 cents for each elector entitled to vote for the office.
3. in the case of a registrant for a question, 50 cents for each elector entitled to vote on the question.

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:

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

FINANCIAL REPORTING

On or before **2:00 p.m., March 25, 2011** each candidate is required to file the necessary financial reports with the City Clerk. **Penalties come into effect immediately.**

Campaign Under \$10,000

If the candidate's campaign expenses and contributions were each less than \$10,000, he or she must file a financial statement in the prescribed form.

Campaign Over \$10,000

If either the candidate's expenses or contributions were over \$10,000, he or she is required to submit a report prepared by an auditor licensed under the *Public Accountancy Act* in the prescribed form.

Campaign Surpluses

Any surplus in a candidate's campaign must be paid to the City Clerk at the time of filing the financial statement. Subject to the limitations under Section 79 the surplus becomes the property of the Municipality.

Campaign Deficits

If the candidate has a deficit in his or her campaign, the campaign period may be extended beyond December 31, 2010, to obtain additional contributions in order to eliminate the deficit. The candidate must notify the clerk using Form 6 on or before December 31, 2010.

The supplementary reporting period will end as of June 30, 2011, and the candidate must file a supplementary financial statement and auditor's report by September 30, 2011. These reports must include all the information contained in the initial statement or report, updated to reflect the changes to the candidate's election campaign finances during the supplementary reporting period.

Record Keeping / Accounting Systems

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

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

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

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

1. bank accounts provide monthly statements and cancelled cheques;
2. duplicate deposit slips are made for every deposit, listing the names of the contributors and the amounts received from each;
3. all payments are drawn from the campaign account;
4. all invoices from suppliers and other documentation relating to expenses are retained.
5. a petty cash fund to handle minor expenses is kept and invoices are obtained to support all payments from the fund. At any point in time the cash on hand plus the total amount of invoices should equal the original amount of the petty cash fund. The fund can be replenished periodically by a cheque drawn on the campaign account in an amount equal to the total amount of the invoices; and
6. all amounts accepted should be deposited intact into the campaign account. If any contribution is unacceptable for any reason, the contribution should be returned before it is deposited, if possible. Un-deposited cash contributions should not be used to pay off debts or to pay for purchases.

Penalties for Default of Financial Reporting

Under section 80 (1) a candidate is subject to the penalties listed in subsection (2) in addition to any other penalty that may be imposed under this Act:

- (a) if he or she fails to file a document as required under section 78 or 79.1 by the relevant date;
- (b) a document filed under section 78 shows on its face a surplus as described in section 79 and the candidate fails to pay the amount required by section 79(4) to the clerk by the relevant date;
- (c) if a document filed under section 78 shows on its face that the candidate has incurred expenses exceeding what is permitted under section 76; or
- (d) if a document filed under section 79.1 shows on its face a surplus and the

candidate fails to pay the amount required by subsection 79.1 (7) by the relevant date.

(2) In the case of a default described in subsection (1):

- (i) the candidate forfeits any office to which he or she was elected and the office shall be deemed to be vacant; and
- (ii) until the next regular election has taken place, the candidate is ineligible to be elected or appointed to any office to which the Act applies.

In addition to the above sections 91 and 92 of the *Municipal Elections Act, 1996* set out penalties with respect to violations under the Act as follows:

91(1) If a candidate is convicted of a corrupt practice under this Act, or of an offence under the Criminal Code (Canada) in connection with an act or omission that relates to an election to which this Act applies, then, in addition to any other penalty provided for under this Act,

- (a) any office to which he or she was elected is forfeited and becomes vacant; and
- (b) he or she is ineligible to be nominated for or elected or appointed to any office until the next two regular elections have taken place after the election to which the offence relates.

(2) However, if the presiding judge finds that the candidate committed the corrupt practice or offence under the Criminal Code (Canada) without any intent of causing or contributing to a false outcome of the election, clause (1) (b) does not apply. 1996, c.32, Sched.,s.91(2).

92(3) If the expenses incurred by or on behalf of a candidate exceed the amount determined for the office under section 76, the candidate is liable to a fine equal to the excess, in addition to any other penalty provided for in the Act. 1996,c.32,Sched.,s.92(3)

(5) A candidate is guilty of an offence and, on conviction, in addition to any other penalty that may be imposed under this Act, is subject to the penalties described in subsection 80(2), if he or she,

- (a) files a document under section 78 or 79.1 that is incorrect or otherwise does not comply with that section; or
- (b) incurs expenses that exceed what is permitted under section 76. 1996, c.32,Sched., s.92(5).

(6) However, if the presiding judge finds that the candidate, acting in good faith, committed the offence inadvertently or because of an error in judgement, the penalties described in subsection 80(2) do not apply. 1996,c.32, Sched.,s 92(6).

Candidate Duties – Checklist

Every candidate must do the following:

- open a separate account at a financial institution **exclusively** for campaign purposes in the name of the candidate's election campaign;
- deposit **all** contributions intact into the campaign account, including contributions made by the candidate and his or her spouse;
- pay **all** campaign related expenditures from the campaign account (an exception to this rule is that the nomination filing fee will not be paid from the account, since the account cannot be used until after being nominated);
- value and record contribution 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 totals more than \$100; and
- maintain all election finance records for the term being sought and until the new council is organized following the next election.

NOTE: Receipt forms are valuable documents and should be stored in a secure place. Receipts must be signed by the candidate or his or her designate. It is a good practice to have a receipt that is a multi-part form, one for the contributor and one or more for the candidate's records. Receipts should be sequentially numbered.

Compliance Audits

81 (1) Compliance audit – Application

An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances.

81 (2) Compliance audit –Requirements

The application shall be made to the clerk of the municipality or the secretary of the local board for which the candidate was nominated for office; and it shall be in writing and shall set out the reasons for the elector's belief.

81 (3) Compliance audit – Deadline

The application must be made within 90 days after the latest of,

- a) the filing date under section 78;
 - b) the candidate's supplementary filing date, if any, under section 78;
 - c) the filing date for the final financial statement under section 79.1;
- or
- d) the date on which the candidate's extension if any, under subsection 80 (3) expires.