

**INFORMATION FOR CANDIDATES**



**2014 MUNICIPAL ELECTION  
CANDIDATE'S GUIDE**

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## 1.0 INTRODUCTION

This guide has been prepared for candidates seeking candidacy in the 2014 Municipal Election for the Municipality of Brighton. Although the content of this document highlights many of the electoral processes involved in the upcoming election, candidates are urged to refer directly to the *Municipal Elections Act, 1996, as amended, (MEA)* (available at [www.elaws.gov.on.ca](http://www.elaws.gov.on.ca)) in order to fully understand all legislative requirements. It is imperative that candidates satisfy themselves, through their own determination, or with the assistance of legal counsel, of the various legal and financial requirements relating to their candidacy.

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.

A Municipal Candidate's Guide is also published by the Ministry and available for download. The provincial guide typically serves as an excellent supplemental resource with respect to articulating many of the key roles and responsibilities with respect to municipal election campaigns. Municipal election staff would be happy to provide a copy of the provincial guide to any candidate upon request.

Over the course of the next few months, candidates will be receiving information periodically from Election Staff, therefore, it is important that your current contact information is on file with the Clerk (including a valid e-mail address). If you have any questions or concerns please do not hesitate to contact one of the numbers provided below.

Thank you and best of luck.



Gayle J. Frost  
CAO/Returning Officer

## **2.0 CONTACT INFORMATION**

Municipality of Brighton  
35 Alice Street, P. O. Box 189  
Brighton, ON K0K 1H0  
613-475-0670 (tel.)  
613-475-3453 (fax)

Gayle J. Frost, CAO/Clerk/Returning Officer  
[gfrost@brighton.ca](mailto:gfrost@brighton.ca)

Vicki Kimmett, Deputy Clerk/Deputy Returning Officer  
[vkimmett@brighton.ca](mailto:vkimmett@brighton.ca)

Linda Selman, Executive and Human Resources Assistant/Election Officer  
[lselman@brighton.ca](mailto:lselman@brighton.ca)

Municipal Website – [www.brighton.ca](http://www.brighton.ca)

### **3.0 IMPORTANT DATES**

#### **Nomination Period: January 2, 2014 - September 12, 2014**

Nominations may be filed by candidates between Monday and Friday, 8:30 a.m. to 4:30 p.m. at the Municipal Office, Alice St, and on September 12, 2014 until 2:00 p.m.

#### **Campaign Period: When Nomination is Filed - December 31, 2014**

The campaign period begins whenever a candidate files a nomination paper and ends on December 31, 2014 (unless the candidate withdraws the nomination, the Municipal Clerk rejects the nomination or the candidate files to extend his or her campaign to erase a deficit). Candidates shall not receive contributions outside of their campaign period.

#### **Certificate of Maximum Campaign Spending Limits: Nomination Filing**

The Clerk will provide preliminary notice of the maximum campaign spending limits to all certified candidates (pursuant to *OR 383/02, MEA*, Councillor - \$5,000 + \$.85 per elector, Mayor - \$7,500 + \$.85 per elector). This limit is calculated using the number of electors appearing on the voters' list as of nomination day in the 2010 Municipal Election. On September 22, 2014 the Municipal Clerk will determine a final limit by applying a revised formula to the number of voters appearing on the voters' list as of nomination day in 2014. The greater of the two limits shall apply.

#### **Voters' List: September 2, 2014**

Will be made available to all registered candidates who complete a declaration form.

#### **Revision Period: September 2, 2014 - October 27, 2014**

Eligible voters whose names do not appear on the voters' list or are identified incorrectly may file a revision application with the Municipal Clerk using the prescribed form.

#### **Nomination Day: September 12, 2014**

Last day in which nominations may be filed by candidates at Municipal Office (between the hours of 8:30 a.m. and 2:00 p.m.).

#### **Withdrawal of Nomination: September 12, 2014**

Last day to withdraw nominations. The prescribed form must be submitted to the Clerk's Department in writing before 2:00 p.m.).

#### **Removal of Another Elector's Name from Voters' List: September 2, 2014 - September 12, 2014**

The Municipal Clerk may establish a hearing to determine whether the removal of another person's name from the voters' list is appropriate (Section 25(1), *MEA*).

**Interim List of Changes: September 22, 2014**

An interim list of changes made to the voters' list with respect to the removal or amendment of names will be available to candidates.

**Certification of Nomination: September 15, 2014**

The Municipal Clerk will certify nomination papers before 4:00 p.m. and notify, as soon as practicable, any candidate deemed ineligible for office.

**Acclamation of Candidates: September 15, 2014**

After 4:00 p.m., the Municipal Clerk will declare all candidates to be duly elected if they are the only qualified individuals seeking candidacy for a respective office.

**Voting Day: Monday, October 27, 2014****Official Results: Declared as Soon as Possible**

The Clerk typically declares unofficial results following the completion of the counting of all votes on voting day. Official results are typically posted by the Wednesday following voting day (October 29, 2014).

**End of Campaign Period: December 31, 2014**

This is the last day a candidate can raise funds for his or her campaign unless an extension is granted by the Clerk (the campaign period begins when nomination is filed). The end of a campaign period can also occur on the date in which a candidate withdraws his or her nomination or on the day it is rejected by the Clerk.

**Notification to Extend a Campaign Period: December 31, 2014**

Last day for candidates to provide notification, using the prescribed form, in order to extend their campaign in order to reduce a deficit.

**Deadline for Filing Financial Statements: March 27, 2015**

Candidates must file their financial statements in person at the Clerk's Office by no later than 2:00 p.m. Penalties will apply immediately following March 27 if a financial statement has not been submitted. A candidate may, before this day but after December 31, 2014, apply to the Ontario Court of Justice in order to extend the time to file his or her financial statement. The Court may grant an extension of no more than 90 days.

**Deadline for Compliance Audit Requests: June 25, 2015**

Last day for a compliance audit request to be submitted with respect to a reporting period that ended on December 31, 2014.

**End of Supplementary Reporting Period: June 30, 2015**

A 6-month supplementary reporting period is permitted only if a candidate has submitted proper notification to extend his/her campaign by December 31, 2014.

**Deadline for Filing Financial Statements for the Supplementary Reporting Period: September 25, 2015**

Candidates who were granted an extension to their campaign must file their financial statements in person at the Clerk's Office by no later than 2:00 p.m. Penalties will apply immediately following September 25 if a financial statement has not been submitted.

**Deadline for Compliance Audit Requests for Supplementary Reporting Period: December 24, 2015**

Last day for a compliance audit request to come forward with respect to a reporting period that ended on June 30, 2015.

## 4.0 ELECTED OFFICES

At this election, members will be elected for the period commencing December 1, 2014, and ending November 30, 2018, for the following offices:

- a) **MAYOR**  
(One is elected by all electors of the municipality).
- b) **COUNCILLORS**  
(Six to be elected at large).
- c) **DISTRICT SCHOOL BOARD (English) \***  
(One to be elected by public school electors of the municipality).
- d) **DISTRICT SEPARATE SCHOOL BOARD.**  
(One to be elected by separate school electors of the municipality).
- e) **FRENCH LANGUAGE DISTRICT SEPARATE SCHOOL BOARD**  
(One to be elected by French language separate school electors).
- f) **FRENCH LANGUAGE DISTRICT PUBLIC SCHOOL BOARD**  
(One to be elected by French language electors within the municipality).



## **5.0 QUALIFICATIONS**

### **5.1 Member of Council**

Section 256 and 257 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 such office.*

*257. Every person is qualified to be elected or to hold office as a member of a Council of an upper-tier municipality,*

*(a) who is entitled to be an elector in a lower-tier municipality within the upper-tier 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.*

### **5.2 Elector Qualifications (Council)**

Section 17 of the *Municipal Elections Act, 1996* "Qualifications of Electors".

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 or same-sex partner 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.*

Persons Prohibited from Voting

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. (SEE SECTION ON VOTING PROXIES)*
- (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.*

### **5.3 Disqualification of a Member of Council      *Municipal Act Section 258***

- 258(1) The following are not eligible to be elected 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 or Treasurer of the municipality or 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 C – NOMINATION PROCEDURES**" for legislation for filing of nominations.)
  4. Except in accordance with Part III of the *Public Service Act*, a crown employee as defined in 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 or same-sex partner of an owner or tenant 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 of 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.

## **5.4 Board Members - Qualifications, Resignations And Vacancies**

### **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<sup>†</sup>**

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) the Clerk or Treasurer or 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 the district school Board or the school Authority;
  - (c) a member of the Assembly or of the Senate or House of Commons of Canada; or (See "**PART C – NOMINATION PROCEDURES**" for legislation for filing of nominations.)
  - (d) 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;
  - (b) the Clerk or Treasurer or Deputy Clerk or Deputy Treasurer of a municipality or upper-tier municipality, all or part of which is

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<sup>†</sup> See Section 219(7) and (8) of the *Education Act* for additional disqualifications for a by-election.

included in the area of jurisdiction of the district school Board or the 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 Nomination Day and ending on Voting Day, in which case subsections 30(2) to (7) of the *Municipal Elections 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 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 school Board or that school Authority is vacated.

## **6.0 NOMINATION AS A CANDIDATE**

### **6.1 Timing**

Nomination day is **Friday, September 12, 2014**. Nominations may be filed on that day, between the hours of 8:30 a.m. and 2:00 p.m., at the Clerk's Office, 35 Alice St. They may also be filed during normal office hours (8:30 a.m. - 4:30 p.m.) at the same location between Monday, January 2, 2014 and Thursday, September 11, 2014.

### **6.2 Process**

Candidates must submit the prescribed nomination form in order to formally declare their candidacy. By signature of the prescribed form, an individual declares that he or she is legally qualified to become a candidate as of the date in which the nomination form is filed. It is the responsibility of the candidate to satisfy himself or herself that he or she is qualified to be nominated for an office. The candidate's declaration of qualification must be taken before a Commissioner of Oaths and/or designate (some Clerk's staff is able to administer this oath). All candidates, including incumbents, will be asked to present identification to validate their identity and qualifying address. An individual will not be permitted to file for nomination without any such identification.

Either the candidate or an agent of the candidate must file a nomination paper in the Clerk's Office in person. Faxed nomination papers will not be accepted, as an original signature of the candidate is required. At the time in which a candidate or agent files for nomination, he or she must also complete a Candidate Information and FOI Release Form. This form is used to collect information for publication to the municipal website. The Clerk will certify nomination papers by 4:00 p.m. on Monday, September 15, 2014.

### **6.3 Filing Fee**

At the time of filing, each candidate must also submit a filing fee of either \$200 for the office of Mayor, or \$100 for all other offices. The nomination filing fee is payable to the "Municipality of Brighton" by either cash, debit, certified cheque or money order (credit cards will not be accepted). The filing fee will be refunded if the candidate is elected, withdraws his or her nomination, or receives more than 2% of the votes cast for that office.

A candidate **MUST** first file a nomination paper and pay the nomination fee prior to raising campaign funds or incurring election relation expenses.

#### 6.4 Withdrawal of Candidacy

Any candidate wanting to withdraw his or her nomination must notify the Municipal Clerk **by 2:00 p.m. on Friday, September 12, 2014**. Either the candidate or an agent of the candidate must file a Withdrawal of Nomination form in person at the municipal office (fax or email copies will **not** be accepted). If an agent is filing the Withdrawal of Nomination form on behalf of a candidate, the candidate must also provide the agent with a signed letter providing authorization for him or her to submit a withdrawal on his or her behalf.

A withdrawn candidate will still be required to submit a financial statement covering all financial transactions up to the time of the withdrawal.

#### 6.5 Certification of Nomination by Clerk

*35 (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 p.m. on the Monday following Nomination Day. (September 15, 2014)*

*(ii) All additional nominations filed under subsection 33(5) shall be examined before 4 p.m. on the Thursday following Nomination Day. (September 18, 2014)*

*(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. If nomination papers are filed early it will assist the Clerk in certifying the papers before nominations

## **7.0 ELECTION SIGN RESTRICTIONS**

Municipal election signs are governed and controlled by Municipality of Brighton By-law 143-2003. Municipal By-law staff will enforce all provisions contained therein and where an election sign has been erected or displayed in contravention to any of these provisions, an Officer may remove the sign immediately without notice. A candidate is strongly urged to review this By-law as it relates to election signs prior to posting signs on property owned by the Municipality. The By-law can be found on the municipal website [www.brighton.ca](http://www.brighton.ca)

*The Municipality of Brighton Sign by-Law States – Election Sign shall mean any sign which is used to promote a candidate and/or political identity during an election period using a ground sign within the Municipality. Election signs for Federal, Provincial, Municipal or School Board elections shall be in accordance with the Elections Act.*

Placement of Municipal Elections Signs adjacent to a Provincial Highway are governed by the Ministry of Transportation election Sign Policy which is attached to this document.

**Election signs on any roadway or private property must be removed from the municipality within 5 days after election day.**

## **8.0 VOTER INFORMATION**

### **8.1 General**

An eligible elector is able to add his or her name to the voters' list for the 2014 Municipal Election by submitting a completed Application to Amend the Voters' List. These forms will be available from the Clerk's Department at Municipal office during the Election Revision Period (September 2, 2014 to October 27, 2014).

### **8.2 Voters' List**

Pursuant to Section 19(1), *MEA*, the Municipal Property Assessment Corporation (MPAC) will provide the Municipal Clerk with the Preliminary List of Electors containing the names and addresses of all electors eligible to vote in the Municipal Election. As per Section 22, *MEA*, the Municipal Clerk will make corrections to obvious errors and reproduce the Final List of Electors which is made available to all registered candidates on September 2, 2014. According to Section 23(4), *MEA*, only the section of the Voters' List pertaining to the office in which a candidate is running is to be made available.

### **8.3 Adding a name to the Voters' List**

Individuals not appearing on the Voters' List can add their names during the revision period. This can be done in person by visiting the Municipal Clerk's Department (Municipal Office, 35 Alice Street). Proper identification verifying both the individual's identity and qualifying address must be presented along with a completed revision form.

### **8.4 Revision of the Voters' List**

The revision period also provides an opportunity for electors to ensure the accuracy of their voter information on the Voters' List. Common corrections to the Voters' List relate to changes of an elector's name, residential address and school support. Revision forms requesting a change in voter information must be completed using the prescribed form. Beginning, Tuesday, September 2, 2014 completed revision forms can be mailed c/o:

Brighton 2014 Election  
Municipal Office  
35 Alice St, P. O. Box 189  
Brighton, ON K0K 1H0

Completed revision forms can also be dropped off in person at the Municipal's Clerk's office Department during regular office hours (8:30 a.m. to 4:30 p.m.).



## **8.5 Voting Methods and Processes**

The Municipality of Brighton will be using **"VOTE BY MAIL"** for the 2014 municipal election.

**PROXY VOTING** - (***NOTE – WITH THE "VOTE BY MAIL" SYSTEM, PROXY VOTING IS NOT PERMITTED***)

**ADVANCE VOTE<sup>‡</sup>** - (**NOTE – WITH " VOTE BY MAIL" ADVANCE VOTING IS NOT REQUIRED.**)

## **8.6 VOTING DAY**

Voting Day is Monday, October 27, 2014 with the Ballot Return Station open from 10:00 a.m. to 8:00 p.m. with the counting of votes to take place after the closing of the vote

## **8.7 VOTING PLACES**

The only Ballot Return Station is the Municipal Office at 35 Alice St. Brighton

## **8.8 VOTER NOTIFICATION**

**THE VOTE BY MAIL KIT MAILED TO EACH VOTER WILL PROVIDE THE EXACT VOTING INSTRUCTIONS.**

## **8.9 VOTING NOTICE**

In addition to the Voter Notification information provided to each address on the Voters' List, the Clerk will place an advertisement in a newspaper providing notice to all residents of the municipality of the dates and times on which the Ballot Return Station will be open.

## **8.10 FORM OF BALLOTS**

The municipality uses a fully composite ballot. Each elector receives one ballot, which contains all ballots for every office for which they are entitled to vote. There will be of course different ballots for public school electors, separate school electors and for French language separate school electors so that no elector will receive a ballot for offices for which they are not entitled to vote.

## **9.0 FINANCIAL RESPONSIBILITIES**

### **9.1 General**

The following section provides an overview of the various financial responsibilities of a candidate, however, as noted earlier, all candidates are urged to refer directly to the *Municipal Elections Act, 1996* ([www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca)) in order to fully determine the legislative requirements regarding their financial responsibilities. The onus of responsibility is on candidates to satisfy themselves, through their own determination, or with professional assistance, of the various legal and financial requirements relating to their candidacy. The Municipal Clerk and/or Election Staff are not obliged to interpret the provisions of the *MEA* regarding these matters.

### **9.2 Contributions**

Pursuant to Section 66, *MEA*, contributions are monies, goods or services given to a candidate for his or her campaign which include:

- The amount charged for admission to 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
- Any unpaid but guaranteed balance of a campaign loan

### **9.3 Goods & 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
- The amount of a campaign loan obtained by the candidate or the spouse of theCandidate

### **9.4 Timing of Contributions**

Contributions can be solicited by, or accepted on behalf, of a person seeking local municipal office, if that person has been duly nominated as a candidate. Contributions may only be accepted during a candidate's campaign period (in the

event of a campaign that was not extended this occurs from the time with which the nomination is filed up until December 31, 2014). Any contributions received outside the campaign period that cannot be returned to the contributor including any anonymous contributions must be turned over to the Municipal Clerk. Candidates must make reasonable efforts to satisfy themselves that a contributor is entitled to make contributions.

## **9.5 Eligible Contributors**

Pursuant to Section 70(3), *MEA*, only the following may make contributions:

- An individual who is normally a resident in Ontario
- A corporations that carries on business in Ontario
- A trade union that holds bargaining rights for employees in Ontario
- A candidate and his or her spouse (subject to Section 70(5), *MEA*, if not normally a resident in Ontario, a candidate and his or her spouse may make contributions only to the candidate's election campaign)

## **9.6 Contribution Limits**

Pursuant to Section 71(1), *MEA*, a contributor shall not make contributions exceeding a total of \$750 to any one candidate in an election. This limit is never to be exceeded regardless of the number of offices a candidate may have been nominated for during an election period. In addition to this, a contributor shall not make contributions exceeding a total of \$5,000 to multiple candidates for office on the same council or local board. It is also important to note that cash contributions of \$25 or more are not to be accepted by or on behalf of a candidate (Section 70(8), *MEA*).

## **9.7 Candidate's Own Funds**

A candidate and/or his or her spouse may contribute to a candidate's campaign. There is no limit on any such contribution but it is important to note that Section 74(1), *MEA*, provides that a contributor shall **not** make a contribution of money that does not belong to the contributor. Any contribution made by the candidate and/or his or her spouse is still considered a contribution and must be identified and reported as such. Pursuant to Section 79(6), *MEA*, if a candidate has a surplus and he or she has contributed to his or her own campaign and/or his or her spouse has made a contribution, the candidate may, after the election campaign period ends but before filing the financial statement or

supplementary financial statement refund to himself or herself, or to his or her spouse, an amount that does not exceed the lesser of the relevant contributions or the surplus.

The remaining surplus following any such refunds and/or any appropriate expenditures with respect to campaign extensions, becomes the property of the Municipal.

It is important to fully reference Sections 66-82, MEA, as well as other relevant sections within the Act as there have been significant amendments made by Bill 212 with respect of the regulation and control of election campaign financing. Although this guide provides a summary of the relative provisions, it **does not** account for all of the financial responsibilities associated with candidacy.

## 9.8 Ineligible Contributors

Pursuant to Section 70(4), *MEA*, the following shall **not** contribute to a campaign:

- A federal political party registered under the *Canada Elections Act* or any federal constituency association or registered candidate in a federal election
- A provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act*
- The Crown in right of Canada or Ontario, a municipality or local board

## 9.9 Contribution Refunds

Where the candidate learns a contribution has been made or accepted in contravention to any provision of the Act, the candidate must immediately return the contribution. If this is not possible, any such contribution should be paid to the Municipal Clerk. The following are examples of a contribution which must be returned or paid to the Municipal Clerk:

- Issued/received outside a candidate's campaign period
- Issued/received from anonymous sources (except for cash donations less than \$10)
- Issued/received from ineligible sources (e.g. individuals not residents of Ontario)
- Issued/received in excess of the \$750 per contributor limit
- Issued/received a cash contribution in excess of \$25
- Issued/received from funds not belonging to the contributor

## **9.10 Contribution Disclosure**

Notice of all contributions received by the candidate must be submitted to the Municipal Clerk upon completion of his or her campaign period, in the prescribed form and manner, as a part of his or her financial statement.

## **9.11 Frequently Asked Questions Regarding Campaign Contributions**

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

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

### **What is the definition of contributions of goods and services?**

All contributions of goods or services the candidate receives are considered contributions and should be supported by an invoice from the contributor of the good or service. The contribution must be recorded just as if it were money. If part of the agreed upon fee for the purchase of a good or service is considered by a supplier to be a contribution, the supplier should render an account for the total amount and indicate on the statement of account the amount which he or she considers a contribution. If a supplier charges the candidate less than the market value for the purchase of a good or service, the difference between the amount charged and the market value is a contribution. If suppliers of goods or services are not paid or have agreed not to accept payment, such non-payment will constitute a contribution of a good or service and must be receipted as such.

### **Who can accept campaign contributions?**

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

### **How are anonymous contributions handled?**

An anonymous contribution cannot be accepted. The only exception to this rule is a donation received at a fund-raising function held on behalf of a candidate (eg. "pass-the-hat" donations). Each of these donations must be \$10 or less. However, the total revenue from any such donation source must be reported as part of the candidate's financial statement. Any anonymous contribution received that cannot be returned must be paid to the Municipal Clerk.

## 9.12 Fundraising

Fundraising activities are to only be held for a candidate and must occur within his or her campaign period. The *MEA* defines a fund-raising function as “an event or activity held by or on behalf of a candidate for the purpose of raising funds for his or her election campaign”. An account of all revenues and expenses generated from each fundraising function must be included in a candidate's financial statement. The price of admission to a fundraising function and/or any amount paid for a good or service (offered for sale in excess of fair market value) is to be considered and treated as a campaign contribution. Section 67(2.1) provides that a fundraising function does not include costs related:

- Events or activities that are organized for the purpose of promoting public awareness of a candidate and at which the soliciting of contributions is incidental
- Promotional materials in which the soliciting of contributions is incidental

## 9.13 Expenses

Any costs incurred for goods or services by or on behalf of a person wholly or partly for use in his or her election campaign are considered expenses. (Sections 67 and 76(5), *MEA*, can be referenced for further information). Most expenses are subject to a maximum campaign expense limit. Bill 212 amended Section 76(5) to make interest on loans and the nomination filing fee subject to the expense limit. The amendments also resulted in an exemption for costs associated with a candidate's disability and/or those related to a compliance audit.

## 9.14 Maximum Campaign Expense Limits

Pursuant to Section 76(4), *MEA*, a candidate's expenses cannot exceed a certain amount. Section 33.1, *MEA*, indicates that the Clerk must provide notice of this amount when the candidate files for nomination.

As per Section 76(6), *MEA*, the number of electors entitled to vote for an office is the **greater of** the number from the voters' list from the previous election as it existed on nomination day **OR** the number from the voters' list as it exists on nomination day in the current election (September 12, 2014). The following are the maximum campaign expense limits for all applicable offices as certified by the Municipal Clerk as of nomination day in the previous election (September 10, 2010):

- Mayor \$14,571.00
- Councillor \$12,071.00

Ontario Regulation 101/97 establishes the maximum campaign expense limit formula. In the case of a candidate for the office of head of council (Mayor), the amount shall be calculated by adding together \$7,500 plus 85 cents for each elector entitled to vote for the office. In the case of a candidate for any other office, the amount shall be calculated by adding together \$5,000 plus 85 cents for each elector entitled to vote for the office.

### **9.15 Campaign Inventory**

Campaign expenses include the value of any goods held in inventory by a candidate from a previous campaign for use in the 2014 Municipal Election campaign period (Section 67, *MEA*, can be referenced for further information). 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 his or her financial statement.

### **9.16 Deadline for Claiming Expenses**

The 2014 Municipal Election campaign period ends on Friday, December 31, 2014 (a campaign is also deemed to end on September 12, 2014 if a nomination is rejected by the Municipal Clerk or on the date a candidate submits his or her withdrawal). Pursuant to Section 68(1)(4), *MEA*, if a candidate decides to extend his or her campaign for the purposes of paying down a deficit, he or she must submit an application to the Municipal Clerk, using the prescribed form, by 4:30 p.m. on Friday, December 31, 2014. If the application to extend a campaign period is received by this time, a candidate's campaign is deemed to have run continuously from the date of nomination until June 30, 2015.

It is important to fully reference Section 68, *MEA* as there are various conditions not identified in the above section which may be applicable to a campaign with respect to a candidate's campaign period and/or their submission deadline.

### **9.17 Financial Statements and Disclosure**

It is the responsibility of the candidate to file a complete and accurate financial statement **in person at Municipal Office** by the deadline applicable to their respective campaign. All nominated candidates for the 2014 Municipal Election (including those who have withdrawn or were not elected) must disclose their contributions and expenses, using the prescribed form, no later than 2:00 p.m. on March 27, 2015.

In the event of a campaign that was extended to June 30, 2015 pursuant to Section 68, *MEA*, the financial statement must be submitted no later than 2:00 p.m. on September 25, 2015. Further information can be found by referencing Sections 78 and 79.1, *MEA*. This extension notice must be filed in person using the prescribed form.

If any further extension to a candidate's campaign is required it must be sought from the court prior to the regular or supplementary filing deadline. The court cannot extend the filing deadline by more than 90 days. If the financial statement is not filed by the deadline and no extension through the courts has been sought, the penalties (removal from office etc.) are to take effect immediately (Section 89, *MEA*, can be referenced for further information related to offences, penalties and enforcement).

If a candidate files for an extension to his or her campaign, he or she is **still required to submit a financial statement by March 27, 2015** to account for all expenses related to their campaign period up to December 31, 2014. Additionally, they must **also file a supplementary financial statement by September 25, 2015** accounting for all expenses related to their campaign period up to June 30, 2015. The supplementary statement is to cover the entire campaign period, updated to reflect changes to the candidate's election campaign finances during the supplemental reporting period.

The prescribed form for use in the submission of a candidate's financial statement will be made available to all candidates by the Municipal Clerk upon receipt of the template provided by the Government of Ontario. Pursuant to Section 78, *MEA*, an auditor's report shall accompany a candidate's financial statement and be prepared by an auditor licensed under the *Public Accounting Act, 2004*. No auditor's report is required if the total contributions received and total expenses incurred in a candidate's election campaign, up to the end of the relevant period, are each equal or less than \$10,000.

At least 30 days prior to the filing date, the Municipal Clerk will give notice to every candidate of the date in which they are required to file as well as with respect to any penalties that may be associated with non-compliance.

Candidate's financial statements are deemed to be public documents. The documents will be available to the public until the new council or local board takes office following the next regular election.



### **9.18 Campaign Surplus and Deficits**

Pursuant to Section 79, *MEA*, a candidate has a surplus if the total credit exceeds the total debits, and a deficit if the reverse is true (details fully qualifying credits and debits are provided for by Section 79(2)(3), *MEA*). If a candidate's financial statement or supplementary financial statement shows a surplus and the election campaign period has ended at the time the statement is filed, he or she shall pay the surplus to the Municipal Clerk (reduced by the amount of any refund – see below).

According to Section 79(6), *MEA*, a candidate who has a surplus and has made a contribution to his or her campaign and/or his or her spouse has made a contribution, may, after the election campaign period ends but before filing the financial statement or supplementary financial statement, refund to himself or herself or the spouse an amount that does not exceed the lesser of the relevant contribution(s) and the surplus.

If a candidate's campaign reconvenes due to reasons provided for by Sections 68, 81 and 83, *MEA*, (ie. recount, compliance audit, controverted election), the amount held in trust by the Municipal Clerk shall be paid to the candidate with interest. However, pursuant to Section 79(8), *MEA*, when a campaign has ended and it is no longer possible to recommence the campaign period due to a recount, compliance audit or controverted election, the surplus becomes the property of the municipality (as per Section 79.1(10)).

### **9.19 Record Keeping/Accounting System**

Consulting with an auditor (specifically one with experience in campaign financing) on an election campaign accounting system is advisable. This will ensure that a candidate's record keeping and accounting procedures are followed in a satisfactory manner, allowing any necessary audits to be carried out at minimal cost. The auditor is required to examine and to report as to whether the financial statement presents fairly the information contained in the accounting records on which the financial statement is based. Further information regarding campaign accounting requirements can be found in the *MEA*. The following is an excerpt from Section 69, *MEA*:

- (1) A candidate shall ensure that,
  - (a) one or more campaign accounts are opened at a financial institution, exclusively for the purposes of the election campaign and in the name of the candidate's election campaign;
  - (b) all contributions of money are deposited into the campaign accounts;

- (c) all payments for expenses, except for a nomination filing fee, are made from the campaign accounts;
- (d) contributions of goods or services are valued;
- (e) receipts are issued for every contribution and obtained for every expense;
- (f) records are kept of,
  - (i) the receipts issued for every contribution,
  - (ii) the value of every contribution,
  - (iii) whether a contribution is in the form of money, goods or services, and
  - (iv) the contributor's name and address;
- (g) records are kept of every expense including the receipts obtained for each expense;
- (h) records are kept of any claim for payment of an expense that the candidate disputes or refuses to pay;
- (i) records are kept of the gross income from a fund-raising function and the gross amount of money received at a fund-raising function by donations of \$10 or less;
- (j) records are kept of any loan and its terms under section 75 (ie. a candidate and his or her spouse may obtain a loan from a bank or other recognized lending institution in Ontario, to be paid directly into the candidate's campaign account.);
- (j.1) the records described in clauses (f), (g), (h), (i) and (j) are retained by the candidate for the term of office of the members of the council or local board and until their successors are elected and the newly elected council or local board is organized;
- (k) financial filings are made in accordance with section 78 and 79.1;
- (l) proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions on behalf of the candidate;
- (m) a contribution of money made or received in contravention of this Act is returned to the contributor as soon as possible after the candidate becomes aware of the contravention;

(n) a contribution not returned to the contributor under clause (m) is paid to the clerk with whom the candidate's nomination was filed; and

(o) an anonymous contribution is paid to the clerk with whom the candidate's nomination was filed. 1996, c. 32, Sched., s. 69 (1); 2002, c. 17, Sched. D, s. 26.

## **9.20 Compliance Audits**

As per Section 81.1, *MEA*, a Compliance Audit Committee will be constituted and delegated full authority to address applications requesting an audit of a candidate's financial statement. The Committee's term will be equal to that of the elected council. A Terms of Reference will be established by the Municipal Clerk. The central role of the Committee will be to review applications and grant or reject audit requests. Where granted, the Committee will appoint an auditor to review the final statement and, where indicated, the Committee will decide whether legal proceedings shall be commenced.

## **9.21 Notice of Penalties**

Further to 33.1, *MEA*, the Municipal Clerk must provide notice of the penalties under Sections 80(2) and 92(5), *MEA*, to all candidates prior to voting day. The following excerpts are to be considered as the provision of notice pursuant to the Act.

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 by the relevant date;
- (b) if 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 subsection 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),

- (a) the candidate forfeits any office to which he or she was elected and the office is deemed to be vacant; and

(b) until the next regular election has taken place, the candidate is ineligible to be elected or appointed to any office to which this Act applies.

(2.1) In the case of a default described in subsection (1), the clerk shall notify the candidate and the council or board in writing that the default has occurred.

90. (1) If, when a person is convicted of an offence under section 89, the presiding judge finds that the offence was committed knowingly, the offence also constitutes a corrupt practice

92. (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); 2002, c. 17, Sched. D, s. 35 (1).