

# CAMPAIGN FINANCES

## 2010 MUNICIPAL ELECTION

Municipal Elections Act, 1996

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

It is very important for all candidates to be fully aware of the provisions of the *Act* and to follow those provisions correctly. Failure to do so could result in forfeiture of office, ineligibility to run for office in the next regular election, fines and/or imprisonment.

### CAMPAIGN SPENDING LIMITS

The maximum amount of campaign expenses prescribed by the *Act* is:

1. In the case of the Mayor, a total amount of:
  - (a) \$7,500, plus
  - (b) 85 cents for each elector entitled to vote for the office.

The estimated maximum amount of campaign expenses permitted by candidates for the position of Mayor for Southwest Middlesex is **\$12,152.05**

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.

The estimated maximum amount of campaign expenses permitted by candidates for the position of Deputy Mayor for Southwest Middlesex is **\$9,652.05**

The estimated maximum amount of campaign expenses permitted by candidates for the position of Ward 1 Councillor in Southwest Middlesex is **\$6,768.85**

The estimated maximum amount of campaign expenses permitted by candidates for the position of Ward 2 Councillor in Southwest Middlesex is **\$6,536.80**

The estimated maximum amount of campaign expenses permitted by candidates for the position of Ward 3 Councillor in Southwest Middlesex is **\$6,346.40**

The Certificate of Maximum Campaign Spending Limits, which will indicate the actual spending limit for each office, will be issued by the Clerk's office on Monday, September 20, 2010.

### 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; and
- 9 the nomination filing fee.

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.

• **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.

## **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?

Section 68(1) of the *Municipal Elections Act, 1996* prescribes that:

*"For the purposes of this Act, a candidate's election campaign period for an office shall be determined in accordance with the following rules:*

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,*
  - i. *on the day the nomination is withdrawn under section 36 or deemed to be withdrawn under subsection 29 (2), or*
  - ii. *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 December 31 in the case of a regular election and the end of the 12-month period following the 45th 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, by 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* 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 Municipal Clerk);
9. Any anonymous contribution is paid to the Municipal 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 may be made in cash. Any contribution over that amount must not be cash. No contributor may contribute in excess of \$750 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?**
- **Can I borrow money for my campaign?**

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.

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.

- 1 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.
- 2 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.
- 3 If an official receipt has already been issued, the candidate should not refund the contribution until the contributor's copy has been recovered.