
CANDIDATE'S GUIDE

INFORMATION FOR CANDIDATES



Township of Whitewater Region

2010 MUNICIPAL ELECTION

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Note to Clerks:

The candidate information guide on accessibility is available at the AMCTO website (link below). Add it to your Guide!
<http://www.amcto.com/db/newsinfo.asp?it=4233&itemid=13629&DataIT=&ListName=>

PART A

INTRODUCTION

1. IMPORTANT DATES

**January 4, 2010
(or the 1st day that the
Clerk's office is open
following the
January 1st holiday)**

Nominations may be filed

**September 7, 2010
To October 25, 2010**

Revision period for Voters' List

September 10, 2010

Nomination Day - Nominations accepted from
9:00 a.m. to 2:00 p.m.

September 13, 2010

Nominations to be certified or rejected by the
Clerk by 4:00 p.m.
List of Candidates to be posted

October 25, 2010

Voting Day (10:00 a.m. to 8:00 p.m. Hours may
be increased by by-law passed by the Council
requiring voting stations to open earlier than
10:00 a.m.)

2. ELECTED OFFICES

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

Candidates for school board offices are encouraged to contact the office of the Director of Education of the appropriate school board to obtain information on the duties and responsibilities of a trustee.

It is most important to note that the contents of this document are intended only as a guide to certain provisions of relevant legislation and do not purport to recite all applicable statutory references. **Prospective candidates must satisfy themselves through their own determination that they have complied with the election**

financing regulations and that they are in fact qualified and not disqualified by law to seek elected office.

(1) Elected Offices

At this election, members will be elected for the period commencing December 1, 2010, and ending November 30, 2014, for the following offices:

- a) **MAYOR**
(One is elected by all electors of the municipality)
- b) **DEPUTY MAYOR**
(1) One to be elected by all electors of the municipality)
- c) **REEVE**
(1) One to be elected by all electors of the municipality)
- d) **COUNCILLORS**
(1) One to be elected within each of the four (4) wards
- d) **DISTRICT SCHOOL BOARD (English) ***
(1) One to be elected by public school electors of the municipality)
- e) **DISTRICT SEPARATE SCHOOL BOARD**
(1) One to be elected by separate school electors of the municipality)
- g) **FRENCH LANGUAGE DISTRICT SCHOOL BOARD**
(1) One to be elected by French language electors of the municipality)
- f) **FRENCH LANGUAGE DISTRICT SEPARATE SCHOOL BOARD**
(1) One to be elected by French language separate school electors of the municipality)

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

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PART B

QUALIFICATIONS

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.

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 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 five

years after voting day in the election in respect of which he or she was convicted.

Disqualification of a Member of Council

Municipal Act Section 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 V of the *Public Service of Ontario Act 1996*, a public servant 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 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.

3. 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 of 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) 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 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 the day the person is nominated 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.

[†] See Section 219(7) and (8) of the *Education Act* for additional disqualifications for a by-election.

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PART C

NOMINATION AS A CANDIDATE

Qualified At Time Of Nomination

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

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

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

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

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

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

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

Nomination Procedure

Every person who proposes to be a candidate must file nomination papers prior to receiving any campaign contributions and prior to expending any funds on a campaign. A candidate may file papers as early as January 4, 2010 (or the first day after that the Clerks' office is open) with respect to the 2010 election.

Section 33 of the *Municipal Elections Act, 1996*

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(1) A person may be nominated for an office by filing a nomination in the Clerk's office, in person or by an agent.[‡]

(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;

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

(3) If the person was previously nominated for an office on the same Council or local Board in the same election and paid the nomination filing fee at that time,

(a) clause (2) (c) does not apply; and

(b) for the purposes of section 34 (refund) and paragraph 9 of subsection 67 (2) (expenses), the fee paid at the time of the earlier nomination shall be deemed to have been paid in connection with the later one.

Time for Filing

- (4) The nomination may be filed
on any day in the year of the regular election
that is before Nomination Day, at a time when
the Clerks office is open; or
on Nomination Day between 9 a.m. and 2 p.m..

**For the 2010
Elections,
Nomination
Day is on
September
10, 2010.**

Exception for Additional Nominations

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

[‡] Facsimile transmissions or mailed-in nomination forms will not be accepted.

[§] The declaration of qualifications must be taken before a Commissioner of Oaths. The municipal Clerk's office can administer this declaration for you.

Refund of Deposit

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**.*

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 13, 2010)

(ii) 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 (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 close.

** The prescribed percentage of the vote for the return of deposit is at least 2% of the total votes cast for the same office.

PART D

CAMPAIGN INFORMATION

1. ELECTION CONTRIBUTIONS AND EXPENSES

The *Municipal Elections Act, 1996* imposes limitations on the expenses for candidates in municipal elections and also imposes requirements on the candidate to report the contributions received and the funds expended.

CAMPAIGN CONTRIBUTIONS

What is a campaign contribution?

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

- (a) an amount charged for admission to a fund-raising function,
- (b) 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,
- (c) 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
- (d) any unpaid but guaranteed balance in respect of a loan.

The following amounts are not considered contributions:

- (a) the value of services provided by voluntary unpaid labour,
- (b) 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,
- (c) an amount of \$10 or less that is donated at a fund-raising function,

- (d) 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,
- (e) the amount of a loan.

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 a business supplying similar goods and services charges to the public in the same market area at the same time.

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

The candidate may incur campaign expenses and may accept donations on the day he or she files a nomination. This is the start of the campaign period. The campaign period ends:

- (a) on December 31 in the election year, or;
- (b) on the day the nomination is withdrawn or deemed to be withdrawn, or;
- (c) on Nomination Day if the nomination is rejected, or;
- (d) if the candidate has a deficit at the time the campaign period would otherwise end and notifies the Clerk in writing on or before December 31, 2010, the campaign period is extended until the earliest of the following:
 - (i) June 30, 2011
 - (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 candidates deficit at the start of the extension of the election campaign period.

Note that in the event of a recount, a compliance audit application or a court challenge to the validity of the election, a candidate's campaign period could be affected. See Section 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 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 the nomination filing fee) are made from the campaign accounts,
4. All contributions 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*,
7. Proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions of behalf of the candidate,
8. Any contribution of money in contravention of this Act is returned to the contributor as soon as possible after the candidate becomes aware of the contravention. If this is not returned to the contributor, it must be paid to the Clerk,
9. Any anonymous contribution is paid to the Clerk,
10. Records are kept of the following:
 - receipts issued for contributions, the value of every contribution, whether a contribution was in the form of money, goods or services, and the contributor's name and address;
 - every expense, including the receipts obtained for each expense;
 - any claim for payment of expenses that the candidate disputes or refuses to pay;
 - 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;
 - any loan and its terms,
11. The records described in clause 10 are retained 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.

Who can make contributions?

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

The following may make contributions:

- an individual who is normally resident in Ontario;
- a corporation that carries on business in Ontario;
- a trade union that holds bargaining rights for employees in Ontario;
- the candidate and his or her spouse.

Who cannot make contributions?

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,
3. The Crown in Right of Canada or Ontario, a municipality or local Board.

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 regardless of the number of offices for which the candidate has been nominated. A contributor is limited to a maximum of \$5,000 in total contributions to candidates running for office on the same council or board.

There are no limits on the amount an individual or a spouse may contribute to their own campaign.

No person shall make contributions of money that does not belong to the contributor with the exception of loans granted by a lending institution, which are permitted under the Act.

What restrictions are there on fund-raising events?

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

To avoid arguments that expenses incurred in holding a fundraising function may not be exempt from the spending limit, candidates should ensure that raising money is the primary purpose of the function. Events or materials promoting the candidate in which fundraising is incidental do not qualify as fundraising functions and are therefore not exempt from the spending limit.

Can I borrow money for my campaign?

The 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 into the candidate's campaign account. No person other than the candidate, or his or her spouse, may guarantee the loan.

CAMPAIGN EXPENSES

SECTION 67(2)

Expenses are considered to be costs incurred for goods or 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. interest on loans,
4. the nomination filing fee,
5. audit and accounting fees,
6. expenses incurred by a candidate with a disability that are directly related to the disability and would not have been incurred if not for the election,
7. the cost of holding fund-raising functions,
8. the cost of holding parties and making other expressions of appreciation after the close of voting,
9. expenses relating to a court action for a controverted election,
10. expenses relating to a recount in respect of an election, and
11. expenses relating to a compliance audit.

All expenses count toward the candidate's spending limit, except items 5, 6, 7, 8, 9, 10, and 11 above.

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

What Limits Are There On Campaign Spending?

The *Municipal Elections Act, 1996* provides that the Minister has prescribed the campaign spending limits in *O. Regulation. 383/02* and *O. Regulation 499/09*. The consolidated version of the regulation is as follows:

5. The following formulas are prescribed for the purpose of subsection 76 (4) of the Act (maximum amount of expenses):

1. In the case of a candidate for the office of head of council of a municipality, the amount shall be calculated by adding together \$7,500 plus 85 cents for each elector entitled to vote for the office.
2. In the case of a candidate for another office, the amount shall be calculated by adding together \$5,000 plus 85 cents for each elector entitled to vote for the office.

The clerk must provide each candidate with an estimated spending limit upon filing of nomination papers. The estimate will be calculated based on the number of electors on the voters' list as of nomination day in the previous election.

Within ten days after the close of nominations (September 20, 2010), the clerk must provide each candidate with a final spending limit. The final campaign spending limit will be calculated based on the number of electors on the voters' list as of nomination day for the current election.

The higher of the final limit or the estimate becomes the candidate's official spending limit.

2. FINANCIAL REPORTING

On or before 2 p.m. on the last Friday in March following the election (March 25, 2011) each candidate shall file the necessary financial reports with the Clerk.

Expenses of \$10,000 and Under

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

Expenses Over \$10,000

If the candidate's expenses or contributions were over \$10,000 they are required to have their financial statement audited and submit the auditor's report to the clerk along with their financial statement, on the prescribed forms. The auditor's report must be prepared by an auditor licensed under the *Public Accounting Act, 2004*.

Campaign Surpluses

Any surplus in a candidate's campaign must be paid to the Clerk. The Clerk will hold that amount in trust for the candidate and will return it, with interest, to the candidate if the candidate incurs expenses related to a recount, an application for a controverted election, or a compliance audit. If the surplus is not needed for these expenses, the surplus becomes the property of the municipality or school board.

Campaign Deficits And Extending Campaign Periods

If a candidate has a deficit in their campaign they may extend the campaign period beyond December 31, 2010 to obtain additional contributions in order to eliminate the deficit, by notifying the Clerk in writing of the extension on or before December 31, 2010.

The campaign may be extended until the earliest of:

- the deficit is eliminated, or
- the day the candidate is nominated in a subsequent election for an office on the same Council or local Board (if such nomination is before June 30, 2011), or
- the day the candidate notifies the Clerk that no further donations will be accepted, or
- June 30, 2011.

If a candidate extends the campaign period, supplementary reporting period financial statements (and auditor's reports) will be required. The supplementary reporting period will end on June 30, 2011. There are no further extensions of the campaign period beyond June 30, 2011. The financial statements and auditor's reports must be filed by 2 p.m. on September 30, 2011.

If, after June 30, 2011, the candidate incurs expenses relating to a recount, an application for a controverted election or a compliance audit, the Clerk shall refund, with interest, any surplus being held in trust for the candidate. The candidate may use this surplus to only pay for the expenses relating to a recount, an application for a controverted election or a compliance audit and cannot accept any contributions. The candidate must file the prescribed financial statement for every 90-day reporting period following the release of the surplus until the surplus is exhausted or the recount, controverted election or compliance audit is completed. The financial statement is due 10 days following the end of the 90-day reporting period.

Penalties For Non Compliance

If a candidate fails to:

- a) file the required documents,
- b) pay a surplus to the Clerk, or
- c) file documents showing on its face that the candidate exceeded the spending limits

in addition to any other penalty imposed under the *Municipal Elections Act 1996*, a candidate is subject to the following penalties:

1. the candidate forfeits any office to which he or she was elected and the office shall be deemed to be vacant,
2. 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.

Notice Of Default

The Clerk is required to notify the candidate and the council or local board in writing that the default has occurred.

Application To Extend The Time To File The Required Documents

A candidate requiring an extension to the filing deadline must apply to the Ontario Court of Justice **prior to** March 25, 2011. If the court is satisfied there are mitigating circumstances justifying a later date for filing the document, the court may grant an extension for the minimum period of time necessary to enable the candidate to file the document but the court shall not grant an extension of more than 90 days.

A candidate who has applied for an extension to the filing deadline must inform the clerk that they have done so prior to 2 p.m. on Friday, March 25, 2011.

Effect Of Extension

If an extension for filing a document is granted:

- (a) the penalties set out above apply only if the candidate has not filed the document before the end of the extension.

When Penalties In Effect

If a candidate fails to file a required financial statement or auditor's report (or any other document required under Section 78 or 79.1 of the *Municipal Elections Act, 1996*), fails to pay over a surplus or exceeds the spending limit for the office, the candidate forfeits any office to which he or she was elected and the office is deemed to be vacant. The penalties will take effect on the deadline for the filing of the documents. If the candidate applies to the Ontario Court of Justice for an extension of the time to file the financial statement and fails to file the documents by the date established by the Court, the penalties will take effect at the end of the period of extension.

Compliance Audits

Every council and school board must appoint a compliance audit committee by October 1, 2010.

An elector entitled to vote in an election may apply to the Clerk of the municipality or the secretary of a local board for a compliance audit of the campaign of any candidate within ninety [90] days of the filing date of the financial reports of the candidate. Within 10 days after receiving the application, the Clerk of the municipality or the Secretary of a local Board shall forward the application to the Compliance Audit Committee of the Council or the local Board and provide a copy of the application to the council or local board. The Committee must consider the

application and decide whether to grant or reject the application within thirty [30] days.

3. SCRUTINEERS (Candidates' Agents)

Each candidate may appoint any number of persons as are necessary to act as a Scrutineer and to represent them at the voting place and to be present during the counting of the votes.

Scrutineers must be appointed in writing and upon request shall show proof of his or her appointment to an election official.

Only one Scrutineer may be in the voting place for each candidate for each ballot box and for each piece of vote counting equipment (if applicable) and if the candidate enters the voting place the number of Scrutineers that may be present is reduced by one.

Candidates And Scrutineers Have The Following Rights:

(These rights may not apply to the use of an alternative voting method).

- to be present when ballot boxes and materials related to the advance voting and the ballot boxes and statement of the results are being delivered to the Clerk.
- to enter the voting place 15 minutes before it opens and to inspect the ballot boxes and the ballots, and all other election documents but not so as to delay the opening of the voting place.
- to place their own seal on the ballot box before the opening of the voting place.
- to place his or her own seal on the ballot box after the close of voting on an advance vote so ballots cannot be withdrawn or deposited without breaking the seal.
- to examine each ballot as the votes are being counted but not to touch the ballot,
- to object to a person voting,
- to object to a ballot or to the counting of votes in a ballot, (this applies to a manual count system only)
- to sign the statement of the results of an election, and
- to place his or her own seal on the ballot box after the counting of the votes so that ballots cannot be taken out or deposited.

Scrutineers and Candidates are prohibited from the following:

- while in the voting place, attempting, directly or indirectly, to interfere with how an elector votes, and attempting to campaign or persuade an elector to vote for a particular candidate,
- displaying a candidate's election campaign material in a voting place,
- compromise the secrecy of the voting,
- interfere or attempt to interfere with an elector who is marking a ballot,
- obtain or attempt to obtain, in a voting place, any information about how an elector intends to vote or has voted, and
- communicate any information obtained at a voting place about how an elector intends to vote or has voted.

Rights Of Scrutineers And Automated Vote Counting Equipment And Alternative Voting Methods

It should be noted that many municipalities utilize automated vote counting equipment or an alternative voting process such as voting by mail, Internet voting or telephone voting. The use of any of these methods alters the procedures followed in an election, which may impact the opportunity to scrutinize the election process. Candidates in an election where one of these election methods is being used should consult with the municipal Clerk regarding the opportunities for scrutinizing the election available to the candidates or scrutineers.

Amendments to the *MEA* provide that the Clerk's procedures for the use of vote counting equipment may now include the following provisions:

- at the time when and in the place where the votes are being counted, there shall be no more than one scrutineer per certified candidate for each piece of vote counting equipment, and
- at a recount, the persons referred to in subsection 61(5) are not entitled to examine each ballot as the votes are being counted by the clerk

4. PROHIBITION OF CANVASSING IN VOTING PLACES

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

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

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

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

"For the purpose of this section,

'voting place' includes any place in the immediate vicinity of the voting place designated by the Clerk."

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

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

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

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

5. ACCESS TO RENTED PREMISES BY CANDIDATE OR THEIR AUTHORIZED REPRESENTATIVES

Section 28 of the *Residential Tenancies Act, 2006* provides that:

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

6. ACCESS TO CONDOMINIUMS BY CANDIDATE OR THEIR AUTHORIZED REPRESENTATIVES

Section 118 of the *Condominium Act, 1998* provides as follows:

"No corporation or employee or agent of a corporation shall restrict reasonable access to the property by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly, any office in a municipal government or school board for the purpose of canvassing or distributing election material."

7. ACCESS TO CO-OPERATIVE HOUSING UNITS

Section 171.24 of the *Co-operative Corporations Act* provides as follows:

'No non-profit housing co-operative or servant or agent of such a co-operative shall restrict reasonable access to the housing units of the co-operative by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly, any office in a municipal government or a school board for the purpose of canvassing or distributing election material.'

PART E

GENERAL INFORMATION

1. DEFINITION OF RESIDENCE

In determining the eligibility of electors, one must examine the meaning of residence. Provisions exist to allow for the homeless to be included on the voters' list and vote.

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

"2(1) For the purposes of this Act, a person's residence is the permanent lodging place to which, whenever absent, he or she intends to return.

(2) The following rules apply in determining a person's residence:

1. A person may only have one residence at a time.

2. The place where a person's family resides is also his or her residence, unless he or she moves elsewhere with the intention of changing his or her permanent lodging place.

3. If a person has no other permanent lodging place, the place where he or she occupies a room or part of a room as a regular lodger or to which he or she habitually returns is his or her residence.

Exception, students

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

(a) the person lives in one of the local municipalities in order to attend an educational institution, but not with the intention of changing his or her permanent lodging place; and

(b) the person's permanent lodging place is in the other local municipality."

Section 2 (3) of the *Municipal Elections Act, 1996* reads as follows:

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

1. The place to which the person most frequently returned to sleep or eat during the five weeks preceding the determination is his or her residence.

2. If the person returns with equal frequency to one place to sleep and to another to eat, the place to which he or she returns to sleep is his or her residence.

3. Multiple returns to the same place during a single day, whether to eat or to sleep, shall be considered one return.

4. A person's affidavit regarding the places to which he or she returned to eat or sleep during a given time period is conclusive, in the absence of evidence to the contrary.

2. ENUMERATION

The Preliminary List of Electors for the (name of municipality) is prepared by the Municipal Property Assessment Corporation and contains the names and addresses and school support of each person who is listed in the Corporation's data and who meets the qualifications of an elector. The list is delivered to every municipality in Ontario on or before a date to be agreed upon prior to September 1st of an election year.

3. REVISION OF PRELIMINARY LIST OF ELECTORS

The Clerk of the municipality will print the Voters' List by September 1, 2010. Applications for amendments to the Voters' List will be accepted by the Clerk commencing on September 7, 2010 and ending at 8:00 p.m. on Voting Day (October 25, 2010).

Copies of the Voters' List may be viewed at the Municipal Offices during normal business hours.

4. VOTING DAY

Voting Day is Monday, October 25, 2010 with general voting places 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. Special voting places may have different hours if council passes by-law to this effect.

5. VOTING PLACES

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

6. VOTING NOTICE

The Clerk will give notice of the dates and times on which the voting places will be open, including advance voting, and the manner in which electors may use voting proxies and instructions on how to use the alternative voting method being utilized.

7. 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, French language public school electors, French language separate school electors and non-resident owners or tenants of industrial or commercial property (who are not entitled to vote for school board trustees) so that no elector will receive a ballot for offices for which they are not entitled to vote.