



# Candidates' Guide for Municipal By-elections

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## **Candidates' Guide for Ontario Municipal By- elections 2016 – 2018**

This Guide was initially prepared by the Ministry of Municipal Affairs to provide information to candidates in municipal by-elections. The City of Toronto has revised it to reflect the current by-election. The Guide has been updated to reflect amendments made to the Municipal Elections Act, 1996 under the Municipal Elections Modernization Act, 2016 (Bill 181). The information applies to any council by-elections held after the date Bill 181 received Royal Assent on June 9, 2016.

Some of the changes to the Municipal Elections Act, 1996 will not come into force until April 1, 2018. References to those changes have not been included in this Guide, as they do not apply to by-elections conducted prior to April 1, 2018. When the Guide is updated for the 2018 regular election, those changes will be set out in the Guide.

This Guide provides general information in plain language about the rules contained in the Municipal Elections Act, 1996 and other legislation and regulations. It is not meant to replace provincial legislation. For more specific information, please refer to the relevant legislation and regulations which can be found online at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca).

[Municipal Elections Act, 1996](#)

[Municipal Act, 2001](#)

[City of Toronto Act, 2006](#)

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## Eligibility to Run

### Who can run for office in a municipal by-election?

You must be eligible to vote in a municipality in order to run for a position on council. On the day you file your nomination, you must be a Canadian citizen aged 18 or older, and qualify as a resident or non-resident elector. (For more information about eligibility to vote, please see page 1 of the Voters' Guide for Ontario Municipal By-elections 2016 – 2018).

You must be eligible to hold office on the day you file your nomination. For example, a person who is 17 years old but will turn 18 before voting day must wait until he or she has turned 18 to file.

If your municipality has wards, you can run in any ward – you do not have to live in a particular ward in order to be its councillor. However, if you run in a ward where you do not live, you will not be able to vote for yourself. Having a campaign office or a business in a ward where you would not be otherwise eligible to vote does not make you eligible to vote in that ward.

### Municipal employees

If you are an employee of a municipality, and you wish to run for office on that municipality's council, you must take a leave of absence before you file your nomination form. If you are elected, you must resign from your job. You cannot work for a municipality and be on its council at the same time.

If you are an employee of a municipality, and you wish to run for office in a *different* municipality, you do not have to take a leave of absence or resign. However, you may wish to check with your employer to see if there are any policies in place that could affect you.

If you are an employee of an upper-tier municipality, you may run for office in a lower-tier municipality without taking a leave of absence or resigning unless being elected to the lower-tier council also means that you would be a member of the upper-tier council.

### Who is not eligible to be a member of council?

The following people are disqualified from being elected to municipal office:

- any person who is not eligible to vote in the municipality
- an employee of a municipality who has not taken an unpaid leave of absence and resigned (see above)
- a judge of any court
- an MP, an MPP or a Senator
- an inmate serving a sentence in a penal or correctional institution

### Note for MPs, MPPs and Senators

If you are an MP, MPP or Senator, you may file your nomination for municipal office without resigning your current seat in Parliament, the Legislature or the Senate. However, you must resign your seat by the close of nominations. If you are a federal or provincial Cabinet minister, you must step down from cabinet prior to filing your nomination and must resign your seat by the close of nominations.

If you have not resigned by nomination day, your nomination will be rejected and your name will not appear on the ballot.

## Nominations

### Filing your nomination

You must fill out the Nomination Form and file it with your municipal clerk. The clerk may require you to show identification or fill in an additional form to prove that you are eligible. Please see page 32 for links to forms.

You should write down your name as you want it to appear on the ballot. If you normally go by a different name than your legal first name, you may use that name provided the clerk agrees.

**Example:** Your name is George Alexander Louis Smith.

- if you normally go by George Smith, print Smith, George on the nomination form
- if you normally go by Alex Smith, and the clerk agrees, print Smith, Alex on the nomination form
- if you normally go by George Alexander Smith, and the clerk agrees, print Smith, George Alexander on the form

You do not have to provide all of your names under Given Name(s) on the form. Only provide the one(s) that you want to appear on the ballot.

The nomination form must have original signatures. It may not be faxed, mailed or emailed. You must file the nomination form in person, or have an agent file it on your behalf. If an agent is going to file the form on your behalf you should check with the clerk to see if you are required to provide identification or additional paperwork.

The fee to file a nomination is \$200 to run for head of council, and \$100 for all other positions. This fee must be paid to the clerk at the time you hand in your nomination form.

You can file your nomination starting from the day that the by-election is called until 2 p.m. on nomination day.

The clerk must be satisfied that you are eligible to run in order to certify your nomination. If your nomination is not certified, your name will not appear on the ballot.

Your nomination filing fee will be refunded to you if you file your campaign financial statement by the filing deadline.

## Changing your mind - Withdrawal

If you decide to withdraw your nomination, you must notify the clerk in writing by the close of nominations.

If you withdraw your nomination, you are still required to file a campaign financial statement covering all the financial transactions you made in your campaign. You are entitled to have your nomination fee refunded by the clerk if you file your campaign financial statement by the filing deadline. You must file a financial statement even if you do not accept any contributions or incur any expenses.

## Nomination Day

The clerk must set nomination day for a by-election to be no later than 60 days after council passes a by-law that a by-election is required, a school board sends a resolution to the clerk indicating that a by-election is required, or a court orders a by-election. The deadline to file a nomination is 2 p.m. on the date set by the clerk. This is also the deadline for withdrawing a nomination.

## Acclamations

If there is only one certified candidate running for an office after nominations close, that candidate will be declared elected by acclamation. Similarly, in municipalities where multiple candidates are elected at large, if the number of certified candidates is the same as or less than the number of offices, those candidates will be declared elected by acclamation.

If you are elected by acclamation, you must still file a campaign financial statement.



## Campaigning

A person who is in control of an apartment building, condominium building, non-profit housing cooperative or gated community may not prevent you or your representative from campaigning between the hours of 9 a.m. and 9 p.m.

You must however, receive permission from the person to gain access to the building.

## Signs

A landlord or a person acting on a landlord's behalf, may not prohibit a tenant from displaying signs in their apartment.

Condominium corporations or any of its agents may not prohibit the owner or tenant from displaying signs in their unit.

However, the landlord, condominium corporations, persons or agents may set reasonable conditions on the size or type of signs being displayed. They may also prohibit signs being displayed in the common areas of the building.

The City of Toronto has a [by-law](#) regarding when you can put up campaign signs, and how signs may be displayed on public property.

If you wish to place signs on public property, you must pay a \$250 sign deposit or have penalties for failing to remove your signs. Visit the elections website for more information on [election signs](#).

It is your responsibility to ensure that your campaign signs are removed within 72 hours after voting day.

You are entitled to have your nomination fee refunded if you file your campaign financial statement by the filing deadline. The clerk cannot make removing your signs an additional condition for receiving your refund.

## Getting information out

The municipal clerk is not responsible for providing your contact information to voters. It is up to you to provide voters with information about you as a candidate and about your campaign.

## All candidates' debates

The Municipal Elections Act, 1996 does not require candidate debates to be held, and the municipal clerk is not responsible for organizing meetings or debates. Debates could be organized by community groups, media outlets, candidates or any other interested person.

## Joint campaigns/Running on a slate

There is nothing in the Municipal Elections Act, 1996 that would prevent like-minded candidates from campaigning on the same platform or identifying themselves as a group or slate. However, candidates must keep their campaign finances separate and any joint expenses (for example, signs with two candidate's names on them) must be divided between the campaigns.

**For information on campaign finance rules please see pages 11-21.**

## On voting day

### Campaigning on voting day

The Municipal Elections Act, 1996 does not prohibit campaigning on voting day. While there are restrictions on advertising for federal and provincial elections on voting day, these “blackouts” do not exist for municipal elections.

The Act does prohibit campaign material inside a voting place. You should be aware that the “voting place” could include the entire property of a building that has a voting place inside it, including the parking lot. You are not allowed to have campaign brochures, campaign buttons, signs or any other material inside the voting place.

### Who can stay in a voting place

As a candidate, you are allowed to stay in a voting place to observe, but you are not allowed to interfere with voters, attempt to influence how they vote, or ask a voter how they voted. Scrutineers may also stay in the voting place.

Note: If you have been acclaimed, you are not allowed to be in the voting place or to appoint scrutineers.

You and your scrutineers are entitled to be in the voting place 15 minutes before it opens and to inspect the ballot boxes, the ballots and any other papers or forms relating to the vote. However, you may not delay the opening of the voting place.

You and your scrutineers are entitled to place a seal on the ballot box so that ballots put in the box cannot be removed without breaking your seal.

### Scrutineers

You are allowed to appoint a scrutineer for each ballot box in a voting place. You do not have to appoint that many scrutineers, or any scrutineers at all. If you have appointed one scrutineer for each ballot box, one scrutineer must leave while you are in the voting place.

Scrutineers may observe, but they are not allowed to interfere with voters, attempt to influence how they vote, or ask a voter how they voted.

There are no general restrictions on who you can appoint as a scrutineer. An acclaimed candidate is not allowed to be appointed as a scrutineer for another candidate.

You must provide each scrutineer with an appointment in writing. Scrutineers may be required to show their appointment document to election officials at the voting place.

Scrutineers may be required to take an oath of secrecy.

## Counting the votes

If your municipality is going to use voting machines or vote counting equipment, the clerk must establish the processes and procedures for use of this equipment at least 60 days before voting day (or, if there is advance voting, before the first day of advance voting). These procedures will be provided to you when you file your nomination.

The vote count begins immediately after the close of voting at 8 p.m.

If the votes are counted manually, you and your scrutineers are entitled to view the ballots as they are counted, but are not allowed to touch the ballots. You and your scrutineers may object to a ballot or how it is counted (if it is unclear who the vote is for, or if the ballot has extra markings on it, for example). The deputy returning officer is responsible for deciding whether to accept the objection, and must keep a list of all the objections raised.

After the votes have been counted, the deputy returning officer will prepare a statement showing the results, and seal all the other election documents, including the ballots, inside the ballot box. You and your scrutineers are entitled to put a seal on the ballot box at this time. You and your scrutineers are also entitled to sign the statement showing the results.

The sealed ballot box and the statement of the results will then be delivered to the clerk, who will compile the results and declare who has been elected.

Please note: Depending on the number of polls used in the election, it may take the clerk a day or two to make the official declaration.

## After voting day

### Tied votes

If two or more candidates get the same number of votes, and they can't all be elected, there is an automatic recount. The recount must be held within 15 days of the clerk declaring the results of the election. If you are one of the candidates in the tie, you are entitled to be at the recount.

If the recount shows that there is still a tie, then the legislation says that the election will be decided by lot. This means putting the names of the tied candidates into a hat (or other suitable container) and drawing the name of the winner.

### Recounts

The Municipal Elections Act, 1996 requires an automatic recount only if the votes are tied.

A municipal council may put a policy in place that directs the clerk to conduct an automatic recount under certain circumstances. The policy must be adopted at least 60 days before voting day. For example, a council may decide before the election that if two candidates are within 10 votes of each other, an automatic recount will be held.

A municipal council may also order a recount within 30 days after the clerk has declared the results of the election. If the votes were not tied, or the circumstances are not covered by a recount policy, and you feel that there should be a recount, you must either persuade council to order one, or you may apply to the Superior Court of Justice to persuade a judge to order a recount.

Anyone who is an eligible elector may apply to the court for the recount. This application must be made within 30 days of the clerk declaring the results of the election.

Recounts must be conducted in the same way that the votes were originally counted, unless the recount is ordered by the court. For example, if the votes were counted using a vote tabulator, they may not be counted by hand during the recount.

If the recount is ordered by the court, the judge may order that the votes be counted in a different manner.

## Wrapping up your campaign

After voting day, remember to remove any election signs that have been put up, and also to take down your campaign website, if you have one. If you would like to keep using your website, you should remove any references to the campaign. Websites that say “Vote for me” which are left up for years after the election can make it look like you are attempting to campaign for the next election early.

Your campaign must end 45 days after voting day unless you have a deficit and inform the clerk in writing that you are going to extend your campaign. Once your campaign has ended, you should close your campaign bank account and prepare your campaign financial statement.

**The deadline to file the campaign financial statement is 75 days after voting day. You should contact your municipal clerk to find out the date of the filing deadline for your by-election.**

## Campaign Finance

### A word about record keeping

You are responsible for keeping records of the financial activities related to your campaign. The Municipal Elections Act, 1996 does not require you to use any specific accounting system. You may want to consult with an auditor or an accountant early in your campaign to make sure that you are using a bookkeeping and accounting system that will suit your needs.

You should also look through the Campaign Financial Statement ([Form 4](#)) that you will be required to file to make sure that you are keeping records of all the information that must be included on the Statement. Please see page 32 for links to forms.

You are required to keep all of your campaign financial records until December 2018 when the next council takes office.

You must keep the following records:

- the receipts issued for every contribution including when you accepted the contribution and the date you issued the receipt (remember to issue receipts to yourself for any contributions you make)
- the value of every contribution, whether it is in the form of money, goods or services, and the contributor's name and address
- all expenses, including the receipts obtained for each expense
- any claim for payment of an expense that the campaign disputes or refuses to pay
- the funds raised and expenses incurred from each separate fundraising event or activity
- the monies received at a fundraising event or activity by donations of \$25 or less
- the terms of any loan received from a bank or other recognized lending institution

### What is my campaign period?

You are only allowed to accept contributions or incur campaign expenses during your campaign period.

Your campaign begins on the day you file your nomination.

In most cases, your campaign will end 45 days after voting day. Exceptions are:

- If you withdrew your nomination, your campaign ends on the date you informed the clerk in writing that you wanted to withdraw
- If you were not certified as a candidate and your name did not appear on the ballot, your campaign ends on nomination day

If you have extended your campaign to pay down a deficit, you can extend your campaign for up to six months. If you don't need the full six additional months, your extended campaign ends on the day that you notify the clerk in writing that you will be ending your campaign and not accepting any more contributions.

## Bank account

You must open a bank account if you accept any contributions (including contributions of money from yourself) or incur any expenses.

The nomination fee is considered to be a personal expense – not a campaign expense. If, after you pay the nomination fee, you do not spend any money on your campaign, and do not accept any contributions, you do not have to open a bank account.

All contributions – including contributions you make yourself – must be deposited into the campaign bank account. All expenses must be paid from the campaign account.

## Contributions

Campaign contributions are any money, goods or services that are given to you for use in your campaign, including money and goods that you contribute yourself.

If you are given a special discount on a good or service that you are purchasing for your campaign, the difference between what you were charged and what an average person would be charged is considered to be a contribution.

### **Example:**

Your order for campaign signs would normally cost \$500, but the vendor agrees to sell them to you for \$300. You must record a contribution of \$200 in goods or services from the vendor.

If a professional who would normally charge for a service gives you that service for free, the value of the service (i.e. what an average person would pay for it) is considered to be a contribution.

If you sell goods at a fundraising event for more than their market value, the difference between what the person paid you and what they would have normally paid for the item is considered to be a contribution. There is an exception to this rule when items are sold for \$25 or less: the amount is considered to be campaign income, rather than a contribution.



**Example:**

You have campaign t-shirts made to sell as a fundraiser. Each shirt costs \$10 to make, and you sell them for \$20 each. Even though a person buying a shirt has paid \$10 more than market value, they have not made a contribution to your campaign. The \$20 received must be reported as campaign income on your financial statement.

If you sell tickets to a fundraising event, the cost of the ticket is considered to be a contribution.

Note: Corporations and trade unions are not permitted to make contributions to candidates. This includes contributions of money, goods and services, or any special discounts as described above.

If you have inventory such as signs left over from a previous municipal campaign and you use them again, the current market value of the signs (i.e. what it would cost you to buy those signs today) is considered to be a contribution that you make to your campaign.

If you or your spouse guarantees your campaign loan, and the campaign is unable to repay the full amount, any unpaid balance is considered to be a contribution by the guarantor.

### Things that are deemed not to be contributions

If you have volunteers working for your campaign, the value of their volunteer labour is not considered to be a contribution.

A cash donation of \$25 or less received at a fundraising event is not considered to be a contribution, and you may accept such donations without keeping track of who gave them to you.

The value of free political advertising, provided that such advertising is made available to all candidates and is in accordance with the Broadcasting Act (Canada), is not considered to be a contribution.

If you obtain a campaign loan from a bank or a recognized lending institution, the amount of the loan is not considered to be a contribution.

### When you can receive contributions

You can only accept contributions after you have filed your nomination, and you cannot accept contributions after your campaign period has finished. Any contributions received outside the campaign period must be returned to the contributor. If you cannot return the contribution to the contributor, you must turn it over to the clerk.

## Who can make a contribution

You can only accept contributions from:

- individuals who are normally resident in Ontario
- yourself and your spouse

Businesses are not eligible to make contributions. Business owners may make an individual contribution from their personal funds (as long as they are a resident of Ontario).

Groups such as clubs, associations or ratepayer's groups are not eligible to make contributions. The members of these groups may make individual contributions from their personal funds (as long as they are residents of Ontario).

## Ineligible contributors

The following individuals and organizations are not allowed to make contributions to municipal campaigns:

- a federal political party, constituency association, or a registered candidate in a federal election
- a provincial political party, constituency association, or a registered candidate or leadership contestant
- a federal or provincial government, a municipality or a school board
- a corporation
- a trade union

## Contribution limits

There is a \$750 limit that applies to each person who contributes to your campaign. If a person makes more than one contribution (e.g., contributes money, contributes goods, and purchases a ticket to a fundraising event), the total value of all the contributions cannot exceed \$750.

If you are running for mayor in the City of Toronto, the contribution limit is \$2,500.

The maximum total amount that a contributor can give to candidates in the same jurisdiction (i.e. running for the same council) is \$5,000.

You are required to inform each of your contributors of their contribution limits (both the limit for your campaign and the \$5,000 total limit). The Act does not require you to do this in any particular way. One way to ensure that each contributor is informed would be to include information in writing about the contribution limits on the contribution receipt that is given to each contributor.

Only a contribution that is \$25 or less can be made in cash. All contributions above \$25 must be made by cheque, money order, or by a method that clearly shows where the funds came from.

### Contributions from yourself and your spouse

There are no limits on how much you and your spouse can contribute to your campaign. Contributions that you and your spouse make to your campaign do not count toward the \$5,000 limit.

If your campaign ends with a surplus, you can withdraw the value of contributions that you and your spouse made from the surplus. If you still have a surplus once you have withdrawn your contributions, the surplus remaining must be turned over to the clerk.

You are not permitted to refund contributions made by anyone other than yourself or your spouse.

### Contribution receipts

You must issue a receipt for every contribution you receive. The receipt should show who made the contribution, the date, and the value. If the contribution was in goods or services, you must determine the value of the goods or services and issue a receipt for the full value.

If you receive a cheque from a joint personal account, the receipt must be issued only to the person who signed the cheque. The contribution can only come from one person.

You are required to list the names and addresses of every contributor who gives more than \$100 total to your campaign in your financial statement. You should keep a record of the names and addresses of every contributor, regardless of the value of their contribution, because the same contributor may make multiple contributions that end up totalling more than \$100.

Note: Contribution receipts are not tax receipts. Contributions to municipal campaigns cannot be credited against provincial or federal income taxes.

### Returning ineligible contributions

You are required to return any contribution that was made or accepted in contravention of the Act as soon as you learn that it was an ineligible contribution. If you cannot return the contribution, you must turn it over to the clerk.

Contributions should be returned or paid to the clerk if the contribution is:

- made outside your campaign period
- from an anonymous source (except for donations of \$25 or less at a fundraising event)
- from an ineligible source (e.g., someone who doesn't live in Ontario, a

- corporation or trade union, etc.)
- greater than the \$750 limit or the \$5,000 total limit
- a cash contribution greater than \$25
- from funds that do not belong to the contributor who gave them to you

## Contribution rebates

Contributions to municipal campaigns are not income tax-deductible. Municipalities have the authority to establish programs to provide rebates to contributors. The City of Toronto has a contribution rebate program. You can view more information about this program at [www.toronto.ca/elections/by-election](http://www.toronto.ca/elections/by-election).

## Fundraising

Fundraising functions are events or activities held by you or on your behalf for the primary purpose of raising money for your campaign. If you hold an event to promote your campaign and you happen to receive some contributions or ask people to consider contributing to your campaign, this would not qualify as a fundraising event.

Similarly, if you have a sentence in your campaign brochure asking people to make a contribution or giving them information about how to contribute, this would not be a fundraising brochure since its primary purpose is to promote your campaign, not to raise money.

Fundraising events and activities can only be held during your campaign period. You must record the gross income (including ticket revenue and other revenue) and the expenses related to each event and activity on your campaign financial statement.

If you sell tickets to the event, the ticket price is considered to be a contribution to your campaign and you must issue a receipt to each person who purchases tickets. If the ticket price is higher than \$25, tickets cannot be paid for in cash.

If your ticket price is more than \$100, you must include these contributions in Table 1 on your campaign financial statement ([Form 4](#)). If your ticket price is less than \$100 and a person who buys a ticket makes other contributions totalling more than \$100 (including the cost of the ticket), you must record these contributions – including the cost of the ticket – in Table 1.

If you raise funds by selling goods or services for more than fair market value, the difference between the fair market value and the amount paid is considered to be a contribution. If the good or service is sold for \$25 or less, the amount paid is considered to be campaign income, and not a contribution.

If you sell goods (such as food and drink) at market value, the revenue is not considered to be a contribution, but must still be recorded on your campaign financial statement as “revenue not deemed a contribution”.

## Expenses

Campaign expenses are the costs that you incur (or that a person such as your campaign manager incurs on your behalf) during your campaign.

The nomination fee is a personal expense. It is not considered to be a campaign expense, and should not be reported on your campaign financial statement.

You can only incur expenses during your campaign period, except for expenses related to the preparation of an auditor's report. If you are required to include an auditor's report with your financial statement, you may incur these expenses after the campaign period has ended, and report them on your financial statement.

Goods and services that are contributed to your campaign are also expenses. They should be treated as if the contributor gave you money and you went out and purchased the goods and services – you must record both the contribution and the expense.

If you are given a special discount on a good or service that you are purchasing for your campaign, you should record the expense as if you were not given the discount (since the value of the discount is considered to be a contribution of the good or service to your campaign).

### **Example:**

Your order for campaign signs would normally cost \$500, but the vendor lets you have them for \$300 because he wants to help out your campaign. You should record an expense of \$500 for the signs, and record a contribution of \$200 in goods or services from the vendor. Note: As businesses are not permitted to make contributions, the contribution would have to be a personal contribution from the vendor.

Expenses must be paid from your campaign bank account. If you use a credit card to pay for purchases you should make sure that you keep clear records showing that the expense on the credit card was reimbursed from the campaign account.

Note: Any taxes such as HST paid on purchases should be included in the amount of the expense.

## Spending Limit

The spending limit for your campaign is calculated based on the number of electors who are eligible to vote for the office that you are running for. The formula to calculate the limit is:

- for head of council: \$7,500 plus \$0.85 per eligible elector
- for council member or trustee: \$5,000 plus \$0.85 per eligible elector

There is a separate spending limit for expenses related to the holding of parties and

other expressions of appreciation after the close of voting. This spending limit is calculated as ten percent of the amount of your general spending limit.

**Example:**

Your general spending limit is \$25,000. Your spending limit for the holding of parties and other expressions of appreciation after the close of voting would be \$2,500. These expenses do not count toward your \$25,000 general spending limit.

When you file your nomination the clerk will give you an estimate of your general spending limit. This estimate will be based on the number of electors in the last election.

Within ten days after the voters' list has been prepared, the clerk must give you the final general spending limit which is based on the number of electors on the voters' list for the current by-election.

If the spending limit estimate that you received when you filed your nomination is higher than the final spending limit you receive, then the estimate becomes your official general spending limit. The clerk will also provide you with the amount of the spending limit for expenses related to the holding of parties and other expressions of appreciation after the close of voting.

## Types of Expenses

Most of your expenses will be subject to the general spending limit.

The following expenses are not subject to a spending limit:

- expenses related to holding a fundraising event or activity
- expenses relating to a recount
- expenses relating to a court action for a controverted election
- expenses relating to a compliance audit
- expenses incurred by a candidate with a disability that are directly related to the candidate's disability and would not have been incurred if not for the election
- audit and accounting fees

Note: Remember that any materials, events or activities must have fundraising as the primary purpose in order to be exempt from the spending limit. An incidental mention of contributions is not enough to qualify as fundraising.

## When the spending limit applies

Your general spending limit covers expenses that you incur between the beginning of your campaign and voting day. Expenses that you incur between the day after voting day and the end of your campaign are not subject to the general spending limit.

Note: If you incur an expense before voting day, but don't get around to paying for it until after voting day, it is still subject to the general spending limit.

Expenses related to parties and expressions of appreciation are subject to a specific spending limit regardless of whether they are incurred before or after voting day.

## Campaign inventory

If you ran in the last election and you want to reuse leftover goods such as signs or office supplies you must establish the current market value of the goods – what it would cost you to purchase them today. You must record the current market value as an expense.

If you have inventory left at the end of your campaign it becomes your personal property. If you wish to store materials such as signs for use in another election, any costs related to storage are personal costs, not campaign expenses.

**A note to accountants:** The value of all goods must be recorded as an expense regardless of whether the campaign ends with used or unused goods in inventory. Do not deduct the value of unused goods from the campaign expenses, as this will result in the campaign having a surplus on paper that the candidate does not actually have.

## Campaign Financial Statement

It is your responsibility as a candidate to file a **complete** and **accurate** financial statement **on time**.

The filing deadline is 2 p.m. on the day that is 75 days after voting day.

If you have a bookkeeper or accountant to complete the financial statement for you, you are still responsible for ensuring that it is complete and accurate and filed on time.

**If you filed a nomination form, you must file a financial statement.** This includes candidates who withdrew their nomination, candidates who were not certified and did not appear on the ballot, and candidates who were acclaimed. You will not receive a refund of your nomination fee unless you file your financial statement by the deadline.

If you did not receive any contributions (including contributions from yourself) or incur any expenses you are only required to fill out the first page of the financial statement and sign it.

If you received contributions or incurred any expenses you must complete the relevant parts of the financial statement.

If your campaign contributions (including contributions from yourself) or campaign expenses are greater than \$10,000 you must have your financial statement audited and include the auditor's report when you submit your financial statement to the clerk.

If you think that you will be unable to file your financial statement by the deadline, you may apply to the Superior Court of Justice for an extension before the filing deadline.

If you have not filed your financial statement by the deadline, you may file your financial statement within 30 days after the deadline, if you pay the municipality a \$500 late filing fee. You will not receive a refund of your nomination fee if you file during the 30-day grace period.

If you have not filed your financial statement by the end of the 30-day grace period, and did not apply to the court for an extension prior to the deadline, you will forfeit your elected office (if you won the election) and you will be ineligible to run for office or be appointed to fill a vacancy until after the 2018 election.

## Extended campaigns

Your campaign period ends 45 days after voting day. However, if your campaign has a deficit, you can extend your campaign in order to do some additional fundraising. If you want to extend your campaign, you must notify the clerk using the Notice of Extension of Campaign form ([Form 6](#)) on or before the 45<sup>th</sup> day after voting day. Please see page 31 for links to forms.

Your campaign may be extended for a six-month period.

If you extend your campaign you must file two financial statements:

- a financial statement reflecting your campaign until 45 days after voting day
- a supplementary financial statement which includes the information from your primary statement and adds financial information from your extended campaign

The supplementary financial statement must be filed with the clerk by 2 p.m. on the day that is 30 days after the end of the six-month extension.

## Surplus and deficit

If your campaign has a surplus after you have refunded contributions made by yourself or your spouse, you must pay the surplus over to the clerk when you file your financial statement. The surplus will be held in trust, and you can use it if you incur expenses related to a recount, an application for a controverted election, or a compliance audit. If the surplus is not needed for these expenses it becomes the property of the municipality.



If your campaign expenses are greater than your campaign income, your campaign will be in deficit. You are allowed to carry forward this deficit to your next campaign if you run again for an office on the same council in the 2018 election. The campaign deficit exists on paper. You are still obligated to pay any vendors that you owe money to.

### Auditor's Report

If your campaign expenses or the contributions you received total more than \$10,000, **or you are participating in the city's contribution rebate program**, you must have an auditor review your financial statement and provide a report.

The auditor's report must be prepared by an auditor licensed under the *Public Accounting Act, 2004*. Before you hire someone to prepare the report, you should ensure that they are properly qualified.

## Compliance and Enforcement

### Automatic penalties

There are three contraventions of the Act where penalties apply automatically:

1. if you fail to file a financial statement by the end of the 30-day grace period or apply to the court for an extension by the filing deadline
2. if your financial statement shows that you exceeded a spending limit
3. if you fail to turn over your surplus to the clerk when you file your financial statement

The penalty is that you forfeit your office (if you won the election) and you become ineligible to run or be appointed to fill a vacancy until after the 2018 election.

### Compliance audits

Each municipality must appoint a compliance audit committee.

An eligible elector who believes you have contravened the election finance rules may apply for a compliance audit of your campaign finances. The application must be in writing, and must set out the reasons for believing you contravened the rules.

An application for a compliance audit must be submitted to the municipal clerk who conducted the election within 90 days of the deadline to file the campaign financial statement.

The compliance audit committee will consider the application and decide whether to grant or reject the application. You may appeal the committee's decision to the Superior Court of Justice within 15 days after the decision is made.

If the committee grants the application, they must provide written reasons for the decision, which you will receive. The committee will appoint an auditor to conduct a compliance audit of your campaign finances. The auditor is entitled to have access to all of the financial records related to your campaign. The auditor will produce a report, which you are entitled to receive.

The compliance audit committee will meet to consider the auditor's report. If the report concludes that there is an apparent contravention of the Act, the committee will decide whether to commence legal action and provide, to you, written reasons for the decision.

The compliance audit committee does not have any authority to set penalties. Only the court can decide if you actually contravened the Act and, if so, which penalties should apply.

A person who does not want to or who is not able to apply for a compliance audit may decide to commence legal action on their own. A prosecution related to a by-election in the 2014 – 2018 term of office must be commenced before December 1, 2018.

The application to request a compliance audit can be found on [here](#).

## Penalties

If you are convicted of an offence, you may be subject to the following penalties:

- a fine of up to \$25,000
- ineligibility to vote or run in the next general election
- up to six months in prison
- forfeiture of your elected office, if the judge finds that you committed the offence knowingly

If you are convicted of exceeding the spending limit, you may also be fined the amount by which you exceeded the limit.

## Frequently Asked Questions

### Eligibility to run

**I would like to run in the next election, but I am not eligible because I did not file my campaign financial statement after I ran in the last election. Can the Minister give me an exemption and allow me to run?**

No. The Minister does not have authority under the Municipal Elections Act, 1996 to extend the filing deadline or waive the penalties for failing to file.

**My municipality has wards. Can I run in a different ward than the one where I live?**

As long as you are eligible to vote in the municipality, you may run in any ward. If you do run in a ward where you do not live, you will not be able to vote for yourself.

**Can I use my campaign office as my qualifying address so that I can vote for myself?**

No. If you are a resident elector (you live in the municipality), you must vote in the ward where you reside. You cannot choose to vote in a different ward where you may own or rent another property.

### Campaign Finance

**Do I have to have a chief financial officer in order to open a campaign bank account?**

No. Candidates in provincial and federal elections must have a chief financial officer, but candidates in municipal elections do not. Occasionally, bank officials may ask for the name of your chief financial officer, not realizing that this requirement does not apply to municipal candidates. You should direct a bank official who thinks you need a chief financial officer to subsection 88.23(1) of the Municipal Elections Act, 1996.

**Can I pay for campaign expenses using my credit card?**

The legislation says that all campaign expenses must be paid from the campaign bank account. If you pay for goods and services using a credit card, you should be sure to reimburse the expense promptly from the campaign account, and to keep records that show that the expense was paid from the campaign account.

**Can I claim campaign expenses on my income tax?**

No. Municipal campaign expenses cannot be credited against provincial or federal income taxes.

**Can I issue tax receipts to people who contribute to my campaign?**

Contributions to municipal campaigns cannot be credited against provincial or federal income taxes. You should contact your municipal clerk to see if your municipality has a contribution rebate program.

**If I have a surplus at the end of my campaign, can I return contributions to people?**

You can only return contributions that are not eligible (for example, contributions that exceed the limit, are from more than one person, or are from a person that is not eligible to contribute). If you have a surplus, you may refund contributions to yourself and your spouse, and any remaining funds must be turned over to the clerk.

**Can I hold a joint fundraiser or campaign event with another candidate?**

You can, but you must make sure that expenses are divided between the campaigns, and that each contribution received is clearly directed to a specific candidate.

**Campaign Financial Statement**

**I filed my nomination but then withdrew before the election. Do I have to file a financial statement?**

Yes. You must file a financial statement covering the period between when you filed your nomination and when you withdrew it.

**I was acclaimed. Do I have to file a financial statement?**

Yes. All candidates must file a financial statement.

**I didn't have any campaign expenses. Why do I have to file a financial statement?**

You must file a financial statement in order to report that you did not spend any money on your campaign.

**I have extended my campaign. Do I have to file a primary financial statement 75 days after voting day?**

Yes. You must file a financial statement covering your campaign finances to the 45<sup>th</sup> day after voting day by 2 p.m. on the 75<sup>th</sup> day after voting day.

## Completing the Financial Statement

### General information

All candidates must complete Box A: Name of Candidate and Office and Box B: Declaration. If you did not receive any contributions (including contributions from yourself) or incur any expenses beyond the nomination fee, check the box indicating this, and complete the Declaration in Box B. No further information is required.

If you did receive contributions (including contributions from yourself) or incur any expenses beyond the nomination fee, you must fill in the information in Box C, Box D, Schedule 1, and Schedule 2 as appropriate. Note: You may find it easier to fill out the form if you start with the more detailed sections such as the tables in Schedule 1 before filling in the Summary of Contributions and the Statement of Campaign Income and Expenses.

If you received contributions or incurred expenses in excess of \$10,000, you must include an auditor's report with your financial statement.

***Your completed financial statement must be submitted to the clerk by 2 p.m. on the 75<sup>th</sup> day after voting day.***

***You should contact the municipal clerk for the deadline to file the supplementary financial statement.***

## A-Z Tips for Completing Form 4

### Anonymous Contributions

You may keep anonymous contributions that do not exceed \$25 received at a fundraising event (e.g., collected by passing the hat or having a tip jar). All other anonymous contributions must be turned over to the clerk.

If the anonymous contribution is \$100 or less, include it in the total value of contributions not exceeding \$100 per contributor. If the anonymous contribution is more than \$100, include it in the total value of contributions exceeding \$100 per contributor, and include it in Table 2. You will then subtract the contribution as paid or payable to the clerk to arrive at the Total Amount of Contributions.

## Auditor's Report

If your campaign expenses or the contributions you received total more than \$10,000 you must have an auditor review your financial statement and provide a report.

The auditor's report must be prepared by an auditor licensed under the *Public Accounting Act, 2004*. Before you hire someone to prepare the report, you should ensure that they are properly qualified.

## Campaign Deficit

At the bottom of Box C, you must subtract the total amount of your campaign expenses from the total amount of your campaign income. If your expenses are greater than your income, your campaign is in deficit.

If you ran for office on the same council in the previous election, and that campaign also had a deficit, you may include this amount to arrive at the total deficit for your campaign.

***If you have extended your campaign in order to fundraise, you must still file a financial statement reflecting your campaign finances to the 45<sup>th</sup> day after voting day.***

## Campaign Period

Your campaign period began on the date you filed your nomination paper with the clerk.

In most cases, the end date will be 45 days after voting day. Exceptions are:

- If you withdrew your nomination, the date you withdrew
- If you were not certified as a candidate, nomination day

Note: If you have extended your campaign to pay down a deficit, you must file a primary statement reflecting your campaign finances as of the 45<sup>th</sup> day after voting day, and a supplementary statement which includes any contributions or expenses incurred after the 45<sup>th</sup> day after voting day.

If you have extended your campaign to pay down a deficit, you can extend your campaign for up to six months. If you don't need the full six additional months, your extended campaign ends on the day that you notify the clerk in writing that you will be ending your campaign and not accepting any more contributions.

## **Campaign Surplus**

At the bottom of Box C, you must subtract the total amount of your campaign expenses from the total amount of your campaign income. If your income is greater than your expenses, your campaign has a surplus.

If you ran for office on the same council in the previous election, and that campaign had a deficit, you may subtract this amount from your surplus.

You are entitled to recoup contributions made by yourself or your spouse out of the surplus. For example, if the surplus was \$500 and you contributed \$400 to your campaign, you may deduct that \$400, leaving your campaign with a surplus of \$100. If the surplus was \$500 and you contributed \$600, you may deduct \$500 of your contribution, leaving your campaign with \$0. You may not deduct more than the value of the surplus.

If, after deducting contributions made by yourself or your spouse, the campaign still has a surplus, these funds must be turned over to the clerk.

## **Contributions from yourself and/or your spouse**

You and your spouse are not subject to limits on how much you can contribute to your campaign. Record these amounts on the lines provided in Schedule 1. Do not include them in the tables of contributions. The other reason to identify the contributions from you and your spouse is because those contributions can be recouped by you and your spouse if the campaign ends with a surplus.

## **Contributions totalling more than \$100**

If a contributor makes one or more contributions totalling more than \$100 (including the value of goods and services and the cost of tickets to fundraising events), you must record all of these contributions in the tables provided.

## **Contributions totalling \$100 or less**

If the total amount contributed (including the value of goods and services) from a single contributor is \$100 or less, you do not need to provide details on the form. Simply indicate the total value of all such contributions on the line provided. Note: It is the total amount contributed that matters – if an individual buys a ticket to a fundraising event for \$50, and then later in the campaign contributes \$75, each of these contributions must be recorded in Table 2 because the total exceeds \$100.

## **Declaration**

By signing, you are declaring that the information recorded in the financial statement is true and accurate. If your financial statement was prepared by someone else, you as the candidate are still responsible for its accuracy.



## Expenses

Your campaign expenses include the value of any goods or services that have been contributed to your campaign (it is as if the contributor gave the campaign money, which the campaign then spent on acquiring the goods or services).

Not all expenses are subject to the general spending limit. The spending limit also only applies to expenses incurred until the end of voting day. Expenses incurred after voting day are not subject to the spending limit. Note: An expense subject to the limit that was incurred prior to voting day but not paid for until after voting day is still subject to the limit.

Expenses for holding parties and making expressions of appreciation after the close of voting are subject to a separate spending limit.

## Fundraising Events/Activities

The cost of holding fundraising events or activities is not subject to the spending limit. However, in order to be considered a fundraising cost, the primary purpose for the expense must be related to fundraising rather than promoting the candidate. Incidental fundraising that happens to occur during a promotional event is not sufficient to make it a fundraising event. Similarly, a line at the bottom of a campaign brochure asking people to donate does not make the production of the brochure a fundraising expense.

If you have included costs of fundraising events/activities as an expense in Box C, you must provide details of these events and activities in Schedule 2.

Contributions received at a fundraising event may include:

- the price of the ticket
- if goods or services are offered for sale, any amount of money paid that exceeds their market value (e.g., if a \$100 item is sold for \$175, the purchaser has made a \$75 contribution to the campaign)
- personal cheques collected from contributors at the event

These contributions must be recorded in Schedule 1, and where the total from a contributor exceeds \$100, be detailed in the appropriate tables.

The fundraising event may also generate income that is not considered to be a contribution:

- donations of \$25 or less
- if goods or services are offered for sale, the market value of those goods and services sold (e.g., if a \$100 item is sold for \$175, \$100 is income)

If contributors have donated goods or services for the fundraising event, these must be recorded as contributions and as expenses. If goods or services are sold to the campaign for the fundraising event for less than market value, the difference between market value and what the campaign paid must be recorded as a contribution.

### **Goods and Services**

Eligible contributors may donate goods and services to the campaign. These must be recorded as a contribution and as an expense (as if the contributor donated money, which the campaign then spent on the goods and services).

If a vendor is willing to sell goods and services to the campaign at less than market value, the difference between market value and what the campaign paid must be recorded as a contribution. When you record the expense, you should record what you paid plus the value of the discount. As businesses are not permitted to make contributions, the discount would have to be a personal contribution from the vendor.

### **Income**

Your campaign income includes all contributions received from yourself, your spouse and other eligible contributors. This includes the value of contributions of goods and services. Income also includes any refunds of deposits, interest earned by your campaign bank account, and revenue from fundraising events that is not deemed a contribution (for example, if you sold refreshments at market value).

### **Ineligible Contributions**

Not everyone is eligible to contribute to your campaign.

- Only individuals normally resident in Ontario may make contributions to a candidate.
- A contribution must come from one person. Groups such as resident's associations or clubs are not eligible to contribute group money. Spouses are not permitted to make a joint contribution.

A contributor is only permitted to contribute up to \$750 to your campaign in total (\$2,500 if you are running for mayor in Toronto). This includes the value of goods and services. If a contributor has made a number of separate contributions to your campaign, you should ensure that the total does not exceed the limit.

Only contributions of \$25 or less may be made in cash.

You are obligated to return an ineligible contribution as soon as you become aware that it is not allowed under the Act. If you are not able to return it to the contributor, you must turn it over to the clerk.

## **Inventory from previous municipal campaign**

Any inventory from a previous municipal campaign that you are using again is a contribution in goods that you make to your campaign. You must calculate the current market value (for example, if you have 100 signs left over from 2010 and use them again, you must calculate how much it would cost to purchase 100 signs in 2014) and record it in Table 3. Inventory that you are using again must also be recorded as a campaign expense.

## **Loan**

You are only allowed to get a loan from a bank or other recognized lending institution in Ontario, and it must be paid directly into your campaign bank account. You may not receive a loan from family members or from any corporate accounts that you may have access to.

The loan is not considered to be campaign income, and paying it back is not a campaign expense. However, if you or your spouse guarantee the loan and the campaign does not repay all of it, the remaining balance is considered to be a contribution (since the guarantor is basically providing the campaign the means to repay the loan).

Any interest that the campaign pays on the loan is a campaign expense.

## **Sign Deposit**

If your municipality requires a deposit for election signs, this should be recorded as a campaign expense and paid for using campaign funds. If your deposit is refunded, record the amount under Income.

## **Spending limits**

The clerk is required to issue you two estimates for your general spending limit – one when you file your nomination, and one within 10 days after the voters' list has been prepared. The higher of the two is your final general spending limit.

Your spending limit for expenses related to holding parties and making other expressions of appreciation after the close of voting is 10 per cent of your final general spending limit.

## **Volunteers**

The value of services provided by volunteers is generally not considered to be a contribution. If a professional volunteers to provide services for which they would normally be paid, the market value of the service must be recorded as a contribution by the volunteer, and as a campaign expense.

## Where to Find Forms

You can get copies of forms from your municipal clerk, or you can download them from the Government of Ontario's Central Form Repository at [www.forms.ssb.gov.on.ca](http://www.forms.ssb.gov.on.ca).

[Direct link to all forms](#)

Nomination Form ([Form 1](#))

Appointment of Voting Proxy ([Form 3](#))

Financial Statement and Auditor's Report ([Form 4](#)) (link will change)

Financial Statement – Subsequent Expenses ([Form 5](#))

Notice of Extension of Campaign Period ([Form 6](#))

Declaration of Identity ([Form 9](#))

## Contact us

If you have questions or would like to give feedback on this Guide, please contact us at [mea.info@ontario.ca](mailto:mea.info@ontario.ca).

You can also contact your regional Municipal Services Office

### **Eastern Municipal Services Office**

Rockwood House  
8 Estate Lane  
Kingston ON K7M 9A8

General Inquiry: 613-545-2100  
Toll Free: 800-267-9438

### **Central Municipal Services Office**

13<sup>th</sup> Floor  
777 Bay St.  
Toronto ON M5G 2E5

General Inquiry: 416-585-6226  
Toll Free: 800-668-0230

### **Northeastern Municipal Services Office**

Suite 401  
159 Cedar St.  
Sudbury ON P3E 6A5

General Inquiry: 705-564-0120  
Toll Free: 800-461-1193

### **Northwestern Municipal Services Office**

Suite 223  
435 James St. S  
Thunder Bay ON P7E 6S7

General Inquiry: 807-475-1651  
Toll Free: 800-465-5027

### **Western Municipal Services Office**

2<sup>nd</sup> Floor  
659 Exeter Rd  
London ON N6E 1L3

General Inquiry: 519-873-4020  
Toll Free: 800-265-4736

**Ministry of Municipal Affairs**

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