



Candidate and Third Party Advertiser Information Session

**Sudbury – July 11, 2018
2018 Municipal Election**

DISCLAIMER

- These slides are provided by the Ministry of Municipal Affairs for convenience only.
- The slides should not be considered legal advice. These slides are 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.
- As local facts and circumstances are variable, users should obtain their own legal and professional advice when specific issues arise.

ELIGIBILITY TO RUN FOR MUNICIPAL OFFICE

What are the qualifications to run for municipal office?

- A resident, non-resident owner or tenant or spouse of a non-resident owner or tenant
- A Canadian citizen
- 18 years of age or older
- Not legally prohibited from voting
- Not disqualified by any legislation from holding municipal office

NOT ELIGIBLE TO RUN FOR MUNICIPAL OFFICE

Who is not eligible to run for municipal office?

- any person not eligible to vote in the municipality
- an employee of the municipality (unless a leave of absence is taken before nomination and the employee resigns if elected)
- a judge of any court
- a member of the Ontario Legislature, Senate or House of Commons
- a person who was a candidate in the previous election and did not file a campaign financial statement by the deadline

THIRD PARTY ADVERTISER

- A third party advertiser is an individual, corporation or trade union that is registered in the municipality to promote, support or oppose a candidate or a “yes” or “no” answer to a question on the ballot.
- A third party advertisement means an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing,
 - a) a candidate, or
 - b) a “yes” or “no” answer to a question on the ballot.

ELIGIBILITY TO REGISTER AS A THIRD PARTY ADVERTISER

The following are eligible to be a registered third party advertiser in a municipal election:

- an individual
- a corporation
- a trade union

NOT ELIGIBLE TO REGISTER AS A THIRD PARTY ADVERTISER

The following persons and entities are not eligible to file a notice of registration:

1. a candidate whose nomination has been filed under section 33
2. a federal political party registered under the *Canada Elections Act* (Canada) or any federal constituency association or registered candidate at a federal election endorsed by that party
3. a provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act*
4. Crown in right of Canada or Ontario, a municipality or a local board
5. any group or association that is not a corporation

NOMINATION PROCESS

- Nominations can be submitted beginning Tuesday, May 1, 2018.
- Nomination day is Friday, July 27, 2018 (between 9:00 am and 2:00 pm).
- Withdrawal of a nomination must be filed with the clerk's office in writing before 2:00 pm on nomination day.
- It is recommended that a candidate personally attend at the clerk's office to withdraw a nomination.
- Clerk must certify nominations by 4:00 pm on Monday following nomination day (July 30, 2018).

NOMINATION PROCESS

25 SIGNATURE REQUIREMENT

- The nomination for an office on council must be endorsed by at least 25 persons on the official form provided by the province.
- Persons endorsing a nomination must be eligible to vote in an election for an office within the municipality if a regular elections was held on the day that the person endorses the nomination.
- Individuals may endorse more than one nomination.
- The clerk is entitled to rely upon the information filed by the candidate.

RUNNING FOR A DIFFERENT OFFICE

- Occasionally a candidate changes their mind and decides to run for a different office
- A candidate may only run for one office at a time
- If a candidate files a second nomination, the first nomination is deemed to be withdrawn
- If a candidate decides to run for a different office on the same council or as a school board trustee and both are elected at large, everything from the first campaign is transferred to the second campaign.
- Note: If a candidate was running for an at-large council position and decided to run for the head of council position the nomination filing fee would need to be topped up to \$200.00.
- If one or both of the offices is/are elected by ward, the two campaigns must be kept separate and a separate nomination filing fee would be required.

REGISTRATION OF THIRD PARTY ADVERTISERS

- Individuals, corporations and trade unions will be required to identify themselves and provide mandatory information on all advertising.
- There is no registration fee for third party advertisers.
- A third party advertiser would register in the local municipality with the clerk responsible for conducting an election.
- Third parties may advertise in support of or opposition to any candidate being elected by voters in that municipality.
- Registration for questions on the ballot would be included in third party advertising.
- For a regular election, the registration cannot be filed earlier than May 1, 2018 and cannot be filed later than the Friday, October 19, 2018, during the clerk's office hours.

CONTRIBUTIONS

- Candidates and third party advertisers do not have to open a bank account if they do not raise or spend money.
- A contribution includes money, goods or services.
- Contributions to candidates from trade unions and corporations are prohibited in municipal elections.
- Corporations and trade unions can contribute to third party advertisers.

CONTRIBUTIONS (cont'd)

- Candidates can accept contributions from:
 - individuals who are normally resident in Ontario
 - the candidate and their spouse
- Third party advertisers may accept contributions from individuals normally resident in Ontario, trade unions that holds bargaining rights for employees in Ontario and corporations that carry on business in Ontario.

CONTRIBUTIONS (cont'd)

Neither candidates nor third party advertisers can accept contributions from:

- federal political party, constituency association or a registered candidate in a federal election
- provincial political party, constituency association or a registered candidate or leadership contestant
- federal or a provincial government
- a municipality
- a school board
- a business or group that is not a corporation

CONTRIBUTIONS (cont'd)

- Contributions over \$25 may be by cheque or money order or by a method that clearly shows where the funds originated.
- If goods sold to raise funds are sold for \$25 or less, that amount is considered campaign income, not a contribution.
- Donations under \$25 at fundraising events are not contributions.
- Ticket price of fundraiser is a contribution.
- Receipts must be issued for each contribution and should include the name, address, amount and date of the contribution
- No anonymous contributions except for pass the hat collections (limited to \$25).

CONTRIBUTION LIMIT

- The limit on contributions to any one candidate or registered third party advertiser is \$1,200.
- Contributors are limited to an aggregate total of \$5,000 to any number of candidates running for the same council or school board.
- Contributors are limited to an aggregate total of \$5,000 to any number of third party advertisers registered in the same municipality.
- Limit applies whether it is one large contribution or the total of a number of smaller contributions or combination of money, goods and services
- Candidates and third party advertisers are required to inform contributors of contribution limits.

SELF-FUNDING LIMIT

- There is now a limit on the amount that a candidate for a municipal council can make to their own campaign. This limit also applies to contributions made by the candidate's spouse.
- This limit is based on the number of electors voting for the office, to a maximum of \$25,000 per candidate:
 - \$7,500 + \$0.20 per elector for head of council
 - \$5,000 + \$0.20 per elector for other council offices
- These contributions must be deposited into the campaign account, a receipt provided and contributions reported on the financial statement.

CAMPAIGN EXPENSES

For the purposes of the *Municipal Elections Act, 1996*, the following are considered campaign expenses:

- Candidates – costs incurred for goods or services by or under the direction of a candidate wholly or partly for use in their election campaign are expenses.
- Third party advertisers – costs incurred by or under the direction of an individual, corporation or trade union for goods or services for use wholly or partly in relation to third party advertisements that appear during an election in a municipality are expenses.

CAMPAIGN EXPENSES (cont'd)

A campaign expense includes:

- any expense incurred for goods and services in relation to an election
- the replacement value of any goods held in inventory from a previous election
- the equivalent value of any contribution of goods and services for use in whole or in part
- The nomination fee is not a campaign expense.

SPENDING LIMIT

- Ontario Regulation 101/97
- Head of council: \$7500 + 85 cents per elector
- All other offices: \$5000 + 85 cents per elector
- Maximum amount for parties etc. after voting day – 10% of the above calculated amounts.
- The clerk's calculation of the spending limit is final.

THIRD PARTY ADVERTISER SPENDING LIMIT

- Third party advertisers will be subject to two spending limits:
 - a general spending limit
 - a separate limit for expenses related to parties and expressions of appreciation after the close of voting.
- Changes proposed to O. Reg. 101/97 include the following formula for calculating third party spending limits: \$5,000 plus \$0.05 per elector, to a maximum of \$25,000.
- The formula used is based on the number of electors entitled to vote in an election in the municipality.
- The *Municipal Elections Act, 1996* also provides that the spending limit for parties and other expressions of appreciation after voting day be set at 10% of the general spending limit. This would be consistent with the spending limit in place for candidates.

FINANCIAL STATEMENT

- Candidates and third party advertisers must file their financial statement on or before 2:00 pm Friday, March 29, 2019.
- If a candidate/third party advertiser feels that they will not meet the deadline, they may apply to the courts for an extension prior to the March 29, 2019 deadline.

FINANCIAL STATEMENT (cont'd)

- All contributions must be reported.
- The names of contributors who contribute more than \$100 must be reported on the financial statement.
- The clerk is required to make financial statements available to the public in an electronic format free of charge.
- Financial statements must include an auditor's report if expenses or contributions exceed \$10,000.

FINANCIAL STATEMENT (cont'd)

- Candidates can close their campaign and file their financial statement before December 31, 2018.
- Clerks are required to make public a report (on a website or in another electronic format) setting out all candidates and third party advertisers and indicating whether each candidate/third party advertiser complied with the filing requirements by April 30, 2019 (or within 90 days of a by-election).

SURPLUS

- Entire amount of a campaign surplus must be paid to the clerk.
- A candidate or third party advertiser is entitled to a refund of any contributions they (or their spouse, if an individual) made to the campaign before the filing of the financial statement and the payment of the surplus to the clerk.
- The clerk holds the surplus monies in trust for the candidate in the event of a compliance audit.
- The clerk holds the surplus monies in trust by the third party advertiser in the event of a compliance audit.
- If there is no compliance audit, the surplus becomes the property of the municipality or school board.

RECAP: KEY DATES

- Opening of nominations/registration as third party advertiser: May 1, 2018
- Nomination day: Friday, July 27, 2018
- Voting day: Monday, October 22, 2018
- Candidate campaign period: from filing of nomination until Wednesday, December 31, 2018
- Third party advertiser campaign period: from registration until December 31, 2018
- Campaign financial statement filing deadline: Friday, March 29, 2019 at 2:00 pm

RESOURCES

- e-laws
 - *Municipal Elections Act, 1996*
 - *Municipal Act, 2001*
 - *Municipal Conflict of Interest Act*
 - *Education Act*
 - <https://www.ontario.ca/laws>
- MMA municipal elections website: <http://ontario.ca/municipalelections>
- Municipal World: <http://www.municipalworld.com>

Questions

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