

**Clerk's Notice Re: Campaign  
Finance Penalties and Filing Fee  
Refund**

*Municipal Elections Act, 1996 (s. 34; 88.20;  
88.21; 88.23; 88.24; 88.25; 88.27; 88.28; 88.29;  
92 (1); 92 (4))*

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January 22, 2019

To Candidate or Third Party Advertiser:

In accordance with sections 88.25 (9); 88.25 (10); 88.29 (7); and 88.29 (8) of the *Municipal Elections Act, 1996*, the Clerk is herein providing the following mandatory notice to candidates and third party advertisers.

1. Notice of Financial Filing Requirements

**For Candidates**

Every candidate is required to file by Friday, March 29, 2019, with the Clerk with whom their nomination was filed a financial statement and auditor's report in accordance with section 88.25 of the *Municipal Elections Act, 1996*.

**Note:** This includes acclaimed candidates and candidates who withdrew their nomination.

*88.25 (1) On or before 2 p.m. on the filing date, a candidate shall file with the clerk with whom the nomination was filed a financial statement and auditor's report, each in the prescribed form, reflecting the candidate's election campaign finances,*

*(a) in the case of a regular election, as of December 31 in the year of the election; and*

*(b) in the case of a by-election, as of the 45th day after voting day.*

*(2) If a candidate's election campaign period ends as described in paragraph 3 of subsection 88.24 (1), the financial statement and auditor's report must reflect the candidate's election campaign finances as of the day the election campaign period ended.*

*(3) If an error is identified in a filed financial statement, the candidate may withdraw the statement and, at the same time, file a corrected financial statement and auditor's report on or before the applicable filing date under section 88.30.*

*(4) If the candidate's election campaign period continues during all or part of the supplementary reporting period, the candidate shall, before 2 p.m. on the supplementary filing date, file a supplementary financial statement*

*and auditor's report for the supplementary reporting period.*

*(5) If a candidate's election campaign period ends as described in paragraph 3 of subsection 88.24 (1) and the election campaign period continued during all or part of the supplementary reporting period, the candidate shall, before 2 p.m. on the supplementary filing date, file a supplementary financial statement and auditor's report for the period commencing on the day the candidate's election campaign period ends and including the six-month period following the year of the election.*

*(6) A supplementary financial statement or auditor's report shall include all the information contained in the initial statement or report filed under subsection (1), updated to reflect the changes to the candidate's campaign finances during the supplementary reporting period.*

*(7) An auditor's report shall be prepared by an auditor licensed under the Public Accounting Act, 2004.*

*(8) No auditor's report is required if the total contributions received and total expenses incurred in the election campaign up to the end of the relevant period are each equal to or less than \$10,000.*

*(9) At least 30 days before the filing date, the clerk shall give notice of the following matters to every candidate whose nomination was filed with him or her:*

- 1. All the filing requirements of this section.*
- 2. The candidate's entitlement to receive a refund of the nomination filing fee if he or she meets the requirements of section 34.*
- 3. The penalties set out in subsections 88.23 (2) and 92 (1).*

*(10) At least 30 days before the supplementary filing date, the clerk shall give notice of the filing requirements of this section and the penalties set out in subsections 88.23 (2) and 92 (1) to the following candidates:*

- 1. A candidate who notified the clerk under paragraph 4 of subsection 88.24 (1).*
- 2. A candidate who notified the clerk under paragraph 5 of subsection 88.24 (1).*

*(11) The clerk may provide for electronic filing under this section and may establish conditions and limits with respect to electronic filing.*

*(12) If the documents required to be filed under this section are not filed by 2 p.m. on the day that is 30 days after the applicable day for filing the documents, the clerk shall accept the documents only for the purpose of making the documents available under subsection 88 (9.1).*

## **For Third Party Advertisers**

Every third party advertiser is required to file by Friday, March 29, 2019, with the Clerk with whom their nomination was filed a financial statement and auditor's report reflecting the registered third party's campaign finances in relation to third party advertisements.

*88.29 (1) On or before 2 p.m. on the filing date, a registered third party shall file with the clerk of the municipality in which he, she or it registered a financial statement and auditor's report, each in the prescribed form, reflecting the registered third party's campaign finances in relation to third party advertisements,*

*(a) in the case of a regular election, as of December 31 in the year of the election; and*

*(b) in the case of a by-election, as of the 45th day after voting day.*

*(2) If an error is identified in a filed financial statement, the registered third party may withdraw the statement and, at the same time, file a corrected financial statement and auditor's report on or before the applicable filing date under section 88.30.*

*(3) If the campaign period for the registered third party in relation to an election in the municipality continues during all or part of the supplementary reporting period, the registered third party shall, before 2 p.m. on the supplementary filing date, file a supplementary financial statement and auditor's report for the supplementary reporting period.*

*(4) A supplementary financial statement or auditor's report shall include all the information contained in the initial statement or report filed under subsection (1), updated to reflect the changes to the registered third party's campaign finances during the supplementary reporting period.*

*(5) An auditor's report shall be prepared by an auditor licensed under the Public Accounting Act, 2004.*

*(6) No auditor's report is required if the total contributions received and total expenses incurred in the registered third party's campaign in relation to third party advertisements during an election in the municipality up to the end of the relevant period are each equal to or less than \$10,000.*

*(7) At least 30 days before the filing date, the clerk shall give notice of the filing requirements of this section and the penalties set out in subsections 88.27 (1) and 92 (4) to every registered third party that registered in the municipality.*

*(8) At least 30 days before the supplementary filing date, the clerk shall give notice of the filing requirements of this section and the penalties set out in subsections 88.27 (1) and 92 (4) to every registered third party that*

*gave notice to the clerk under paragraph 4 of section 88.28.*

*(9) The clerk may provide for electronic filing under this section and may establish conditions and limits with respect to electronic filing.*

*(10) If the documents required to be filed under this section are not filed by 2 p.m. on the day that is 30 days after the applicable day for filing the documents, the clerk shall accept the documents only for the purpose of making the documents available under subsection 88 (9.1).*

*(11) As soon as possible after April 30 in the year following a regular election or 75 days after voting day in a by-election, the clerk shall make available to the public on a website or in another electronic format a list of all registered third parties for the election along with an indication of whether each has filed a financial statement and auditor's report under subsection (1).*

## 2. Notice of Penalties

### **For Candidates**

In addition to other penalties set out in the *Municipal Elections Act, 1996*, where a candidate has failed to meet the requirements of subsection 88.23 (1) regarding campaign finances, the candidate is subject to the penalties outlined in subsection 88.23 (2) which provides that:

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

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

Subsection 92 (1) provides that a candidate is guilty of an offence and, on conviction, in addition to any other penalty that may be imposed under this Act, is subject to the penalties described in subsection 88.23 (2),

*(a) if the candidate incurs expenses that exceed the amount determined for the office under section 88.20; or*

*(b) if the candidate files a document under section 88.25 or 88.32 that is incorrect or otherwise does not comply with that section.*

### **For Third Party Advertisers**

In addition to other penalties set out in the *Municipal Elections Act, 1996*, where a third party advertiser has failed to meet the requirements of subsection 88.27 (1) regarding campaign finances, the third party advertiser shall not be entitled to register in relation to a subsequent election in the municipality until after the next regular election has taken place.

Subsection 92 (4) provides that a registered third party is guilty of an offence and, on

conviction, in addition to any other penalty that may be imposed under this Act, is subject to the penalties described in subsection 88.27 (1),

*(a) if the registered third party incurs expenses that exceed the amount determined under section 88.21; or*

*(b) if the registered third party files a document under section 88.29 or 88.32 that is incorrect or otherwise does not comply with that section.*

### 3. Notice of Refund

#### **For Candidates**

In accordance with section 34, a candidate is entitled to receive a refund of the nomination filing fee if their financial statement and auditor's report (if applicable) required under subsection 88.25 (1) of the *Municipal Elections Act, 1996*, are filed on or before 2 p.m. on the filing date in accordance with that subsection.



Eric Labelle  
City Solicitor and Clerk

*\*Please be advised that the City of Greater Sudbury is not able to provide advice and reference should be had to the *Municipal Elections Act, 1996*. Candidates and third party advertisers are encouraged to consult with professional service providers, including their lawyers and accountants, in this regard.*