



To: Registered Third Parties

**Notice: Third Party Advertiser Penalties under the *Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched.*, as amended**

The following sections of the *Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched.*, as amended, are of particular interest for Registered Third Parties:

### **Duties of registered third parties**

**88.26** (1) A registered third party shall ensure that,

- (a) no contributions of money are accepted or expenses are incurred in relation to third party advertisements that appear during an election in a municipality unless one or more campaign accounts are first opened at a financial institution exclusively for the purposes of the election campaign;
- (b) all contributions of money are deposited into the campaign accounts;
- (c) all funds in the campaign accounts are used exclusively for the purposes of the election campaign;
- (d) all payments for expenses are made from the campaign accounts;
- (e) contributions of goods or services are valued;
- (f) receipts are issued for every contribution and obtained for every expense;
- (g) records are kept of,
  - (i) the receipts issued for every contribution,
  - (ii) the value of every contribution,
  - (iii) whether a contribution is in the form of money, goods or services, and
  - (iv) the contributor's name and address;
- (h) records are kept of every expense including the receipts obtained for each expense;
- (i) records are kept of any claim for payment of an expense that the registered third party disputes or refuses to pay;
- (j) records are kept of the gross income from a fund-raising function and the gross amount of money received at a fund-raising function by donations of \$25 or less or by the sale of goods or services for \$25 or less;
- (k) records are kept of any loan and its terms under section 88.17;

- (l) the records described in clauses (g), (h), (i), (j) and (k) are retained by the registered third party 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;
- (m) financial filings are made in accordance with sections 88.29 and 88.32;
- (n) proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions under the direction of the registered third party;
- (o) a contribution of money made or received in contravention of this Act or a by-law passed under this Act is returned to the contributor as soon as possible after the registered third party becomes aware of the contravention;
- (p) a contribution not returned to the contributor under clause (o) is paid to the clerk of the municipality in which the registered third party is registered;
- (q) an anonymous contribution is paid to the clerk of the municipality in which the registered third party is registered; and
- (r) each contributor is informed that a contributor shall not make contributions exceeding,
  - (i) a total of \$1,200 to any one registered third party in relation to third party advertisements, and
  - (ii) a total of \$5,000 to two or more registered third parties registered in the same municipality in relation to third party advertisements. 2016, c. 15, s. 61; 2017, c. 10, Sched. 4, s. 8 (16).

### **Exclusion of certain expenses**

(2) Expenses described in paragraph 2 of subsection 88.19 (3) are not expenses for the purpose of clause (1) (a). 2016, c. 15, s. 61.

### **Contributions paid to clerk**

(3) Contributions paid to the clerk under clause (1) (p) or (q) become the property of the local municipality. 2016, c. 15, s. 61.

### **Effect of default by registered third party**

**88.27** (1) Subject to subsection (6) and in addition to any other penalty that may be imposed under this Act, an individual, corporation or trade union that is registered as a registered third party in relation to an election in a municipality is not entitled to register in relation to a subsequent election in the municipality until after the next regular election has taken place,

- (a) if the registered third party fails to file a document as required under section 88.29 or 88.32 by the relevant date;
- (b) if a document filed under section 88.29 shows on its face a surplus, as described in section 88.31, and the registered third party fails to pay the amount required by subsection 88.31 (4) to the clerk by the relevant date;
- (c) if a document filed under section 88.29 shows on its face that the registered third party has incurred expenses exceeding what is permitted under section 88.21; or

- (d) if a document filed under section 88.32 shows on its face a surplus and the registered third party fails to pay the amount required by that section by the relevant date. 2016, c. 15, s. 61.

### **Notice of default**

(2) In the case of a default described in subsection (1), the clerk shall notify the registered third party in writing that the default has occurred and shall make available to the public the name of the registered third party and a description of the nature of the default. 2016, c. 15, s. 61.

### **Application to court**

(3) The registered third party may, before the last day for filing a document under section 88.29 or 88.32, apply to the Superior Court of Justice to extend the time for filing the document under that section and, 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 registered third party to file the document but the court shall not grant an extension of more than 90 days. 2016, c. 15, s. 61.

### **Notice to clerk**

(4) If a registered third party makes an application under subsection (3), the registered third party shall notify the clerk in writing before 2 p.m. on the last day for filing a document under section 88.29 or 88.32 that the application has been made. 2016, c. 15, s. 61.

### **Effect of extension**

(5) If the court grants an extension under subsection (3), the penalty set out in subsection (1) applies only if the registered third party has not filed the document before the end of the extension. 2016, c. 15, s. 61.

### **Cessation of penalty**

(6) The penalty set out in subsection (1) for a default described in clause (1) (a) does not take effect if, no later than 2 p.m. on the day that is 30 days after the applicable day for filing the document, the registered third party files the relevant document as required under section 88.29 or 88.32 and pays the clerk a late filing fee of \$500. 2016, c. 15, s. 61.

### **Late filing fee**

(7) The late filing fee is the property of the municipality. 2016, c. 15, s. 61.

### **Offences by registered third party**

92(4) 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 penalty 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. 2016, c. 15, s. 68 (2).

**Exception, action in good faith**

(5) However, if the presiding judge finds that the registered third party, acting in good faith, committed the offence inadvertently or because of an error in judgment, the penalty described in subsection 88.27 (1) does not apply. 2016, c. 15, s. 68 (2).

**Additional penalty, registered third parties**

(6) If the expenses incurred by or under the direction of a registered third party exceed the amount determined under section 88.21, the registered third party is liable to a fine equal to the excess, in addition to any other penalty provided for in the Act. 2016, c. 15, s. 68 (2).

If you require any further information, please contact Adam Foran, by email at [aforan@oshawa.ca](mailto:aforan@oshawa.ca), or by telephone at (905) 436-3311, ext. 2310.

Mary Medeiros

City Clerk & Returning Officer