Whitby Election 2022

# Notice of Penalties and Refund of Nomination Filing

**Section 33.1 Campaign finances – penalties – notice by clerk**

The clerk shall, before voting day, give to each person nominated for an office notice of,

(a) the penalties under subsections 88.23 (2) and 92 (1) related to election campaign finances; and

(b) the refund of the nomination filing fee that the candidate is entitled to receive in the circumstances described in section 34.

**Section 34 – Refund**

A candidate is entitled to receive a refund of the nomination filing fee if the documents required under subsection 88.25 (1) are filed on or before 2 p.m. on the filing date in accordance with that subsection.

**88.23 (1) Default – where penalties apply**

A candidate is subject to the penalties listed in subsection (2), in addition to any other penalty that may be imposed under this Act,

(a) if the candidate fails to file a document as required under section 88.25 or 88.32 by the relevant date;
(b) if a document filed under section 88.25 shows on its face a surplus, as described in section 88.31, and the candidate 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 88.25 shows on its face that the candidate has incurred expenses exceeding what is permitted under section 88.20; or
(d) if a document filed under section 88.32 shows on its face a surplus and the candidate fails to pay the amount required by that section by the relevant date.

**88.23 (2) Default - penalties**

Subject to subsection (7), in the case of a default described in subsection (1),

(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.



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**88.23 (3) Default – notice by clerk**

In the case of a default described in subsection (1), the clerk shall,

(a) notify the candidate in writing that the default has occurred;

(b) if the candidate was elected, notify the council or the board to which he or she was elected in in writing that the default has occurred; and

(c) make available to the public the name of the candidate and a description of the nature of the default.

**88.23 (4) Compliance – clerk's report – filing**

The clerk shall make available to the public a report setting out all candidates in an election and indicating whether each candidate complied with section 88.25.

**88.23 (6) Application to court – for extension**

The candidate may, before the last day for filing a document under section 88.25 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 candidate to file the document but the court shall not grant an extension of more than 90 days.

**88.23 (7) Application to court – for extension – notice**

If a candidate makes an application under subsection (6), the candidate shall notify the clerk in writing before 2 p.m. on the last day for filing a document under section 88.25 or 88.32 that the application has been made.

**88.23 (8) Application to court – for extension – effect**

If the court grants an extension under subsection (6), the penalties set out in subsection (2) apply only if the candidate has not filed the document before the end of the extension.

**88.23 (9) Default – cessation of penalty – late filing fee**

The penalties set out in subsection (2) for a default described in clause (1) (a) do 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 candidate files the relevant document as required under section 88.25 or 88.32 and pays the clerk a late filing fee of $500.



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**88.23 (10) Default – late filing fee – property of municipality**

The late filing fee is the property of the municipality.

**92 (1) – Offences by candidate**

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.



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