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DOCUMENT TITLE: Municipal Elections - Filing of Financial Statements			NO.: LIS-WI-074
AUTHORED BY:	Alexander Harras	ISSUE #	4
APPROVED BY:	Nicole Cooper	ISSUE DATE:	21 / 11 / 12

1 PURPOSE

1.1 To establish processes related to the filing of Financial Statements for municipal election Candidates and Registered Third Party Advertisers (RTPAs). Please note that the dates and timelines outlined in this Work Instruction apply only to regularly scheduled elections; a different set of timelines would apply in the event of a by-election.

2 INPUTS

2.1 All Candidates and RTPAs are required to submit Financial Statements to the Town following the conclusion of the Election.

3 OUTPUTS

3.1 The Town will receive all Financial Statements and post them to the Town's website for public viewing.

4 DEFINITIONS

4.1 Definitions and abbreviations applicable to this work instruction are listed in LIS-OP-050 Municipal & School Board Elections.

5 RESPONSIBILITIES

5.1 Candidates and RTPAs are responsible for filing Financial Statements in accordance with the rules and timelines established in the Municipal Elections Act (MEA).

5.2 Any Candidate or RTPA that filed a nomination or registration form must file a Financial Statement. This includes Candidates or RTPAs that withdrew their nomination or registration or were not certified, as well as those Candidates who were acclaimed, and those who became ineligible during the campaign period.

5.3 Candidates and RTPAs are responsible for seeking independent legal and accounting advice, if required, to assure themselves that they are compliant with the campaign finance and reporting/filing provisions of the MEA.

5.4 The Town Clerk and/or Municipal Election Staff are not responsible for providing advice on campaign finance rules or the preparation of Financial Statements, nor assisting in completing the requisite Financial Statement forms, but will assist Candidates and RTPAs where possible and appropriate.

5.5 The Town Clerk is responsible for issuing notices described within this policy, accepting Financial Statements, performing a number of checks against certain requirements of the Act, ensuring that

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Financial Statements are posted on the Town’s website, and any related duties described herein.

6 INTERESTED PARTIES (CUSTOMERS)

- 6.1 Electors
- 6.2 Candidates
- 6.3 RTPAs

7 LEVEL OF SERVICE

- 7.1 All statutory deadlines within the MEA pertaining to the notification of filing deadlines and acceptance of Financial Statements shall be adhered to by the Town.
- 7.2 Election Staff shall be available to receive submitted Financial Statements during regular office hours after the campaign period has concluded for a Candidate or RTPA.
- 7.3 Once received, a Candidate’s or RTPA’s Financial Statement shall be posted to the Town’s website for public viewing as soon as possible.
- 7.4 A Candidate’s nomination filing fee shall be returned to them by cheque as soon as possible after they have filed their Financial Statement.

8 QUALITY RECORDS

- 8.1 Form 04: Candidate Financial Statement
- 8.2 Form 05: Financial Statement Subsequent Expenses
- 8.3 Form 06: Extension of Campaign Period
- 8.4 Form 08: RTPA Financial Statement

9 RISK-BASED THINKING

- 9.1 Submission of complete Financial Statements by Candidates and RTPAs is an integral component of Election accountability. The Town must ensure that Candidates and RTPAs are aware of their obligations, and must provide the public with a right of access to the submitted documentation. Failure to follow these Work Instructions may result in the following risks:
 - 9.1.1 Candidates and/or RTPAs are not properly notified of their filing requirement, and may miss the deadline to file;
 - 9.1.2 Election Staff inadvertently accept incomplete documentation, risking exposing the Candidate or RTPA to disqualification from future elections, or even loss of office if elected;
 - 9.1.3 The public does not have timely access to Financial Statements.
- 9.2 The risks identified herein are mitigated in the following manner:

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- 9.2.1 Notice is sent to Candidates and RTPAs advising of their obligations under the MEA;
- 9.2.2 Election Staff are trained on the requirements for a complete Financial Statement;
- 9.2.3 The Town’s website is maintained in an up-to-date manner, ensuring all submitted Financial Statements are posted immediately.

10 RESOURCES

- 10.1 Municipal Elections Act, 1996
- 10.2 Town of Ajax Candidate’s Guide
- 10.3 Town of Ajax Third Party Advertiser’s Guide
- 10.4 Ministry of Municipal Affairs – various guides for election participants
- 10.5 Town of Ajax website – www.ajax.ca

11 INSTRUCTIONS

Notice by Clerk & Provision of Form

- 11.1 At least 30 days prior to the Filing Date, the Town Clerk shall give notice to every Candidate and RTPA of the date on which they are required to file their Financial Statement, the penalties that may be associated with non-compliance, and any other information required under the MEA.
 - 11.1.1 E-mail communication may be used for the purpose of fulfilling this requirement, where the Candidate or RTPA has provided an e-mail address to the Town Clerk. Where an e-mail address has not been provided, notice shall be sent by standard letter mail.
- 11.2 The prescribed form for use in the submission of a Candidate’s Financial Statement shall be made available to all Candidates by the Town Clerk, and will also be available on the Ministry of Municipal Affairs’ website.

Filing of Financial Statements

- 11.3 Candidates and RTPAs shall file their Financial Statement in accordance with sections 88.25 or 88.29 of the MEA respectively, by the prescribed filing date. They may do so in person or by agent at Town Hall.
- 11.4 Financial Statements are to be filed with the Clerk with whom the nomination was filed. Therefore, Financial Statements for Regional Chair Candidates shall be filed with the Clerk of the Region of Durham, and Financial Statements for French School Board Candidates shall be filed with the Clerk of the City of Oshawa.
- 11.5 Whenever possible, Financial Statements should be accepted by the Town Clerk or Deputy Clerk personally. If both are unavailable, a Financial Statement may be accepted by a designate of the

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Town Clerk or Deputy Clerk.

- 11.6 If a Candidate or RTPA identifies an error in their filed Financial Statement, they may withdraw the statement and, at the same time, file a corrected Financial Statement and Auditor’s Report (if required) on or before the applicable filing date. Only the most recently filed financial statement shall be posted to the Town’s website.
- 11.7 The Clerk has no authority, legislated or otherwise, to grant an extension on the filing deadline to a Candidate or RTPA.
- 11.8 If the required documents are filed after the prescribed deadline, the Clerk must still accept the documents only for the purpose of making the documents available pursuant to this Work Instruction.

Initial Inspection by Clerk & Notice of Default

- 11.9 A number of cursory checks shall be performed by Election Staff when accepting the filing of a Financial Statement:
 - 11.9.1 Check whether the Financial Statement on its face indicates that contributions or expenses exceeded \$10,000, and if it does the Election Staff member shall check to ensure that the Financial Statement includes the necessary Auditor’s Report;
 - 11.9.2 Check that the Financial Statement does not indicate that expenses were incurred in excess of the permitted amount; and
 - 11.9.3 Check to see whether the Financial Statement indicates a surplus, and where it does, that the statement is accompanied by a payment to the Town for the surplus, reduced by the amount of any refund under Sec. 88.31 (6) of the MEA.
- 11.10 The Town Clerk shall issue a Notice of Default where a Candidate or RTPA has failed to file a Financial Statement or Auditor’s Report by the prescribed date, or where such a document shows a surplus and the Candidate or RTPA fails to pay that surplus to the Town Clerk by the prescribed date, or where the Candidate’s or RTPA’s Financial Statement shows on its face that the Candidate or RTPA has exceeded their spending limit.
- 11.11 In issuing a Notice of Default regarding a Candidate or RTPA, the Town Clerk shall:
 - 11.11.1 Notify the Candidate or RTPA in writing that the default has occurred;
 - 11.11.2 If the Candidate was elected, notify the council or board to which they were elected in writing that the default has occurred (does not apply to RTPAs); and

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11.11.3 Make available to the public the name of the Candidate or RTPA and a description of the nature of the default.

Refund of Nomination Fee

11.12 If a Candidate files their Financial Statement by the prescribed deadline, the Candidate is entitled to a refund of their nomination fee. The Town Clerk shall ensure that all Candidates eligible for a refund of their nomination fee are issued the refund within 1 month of filing their Financial Statement.

11.13 In order to process a refund, staff must complete a Disbursement Voucher with instructions for the Finance Department to mail the cheque to the mailing address provided on the Candidate’s nomination form, unless the Candidate requests in writing that the cheque be sent to a different address.

Extension of Campaign Period (Notification to Town Clerk)

11.14 In a regular election, the campaign period ends on the last calendar day of the election year (December 31). If a Candidate or RTPA wishes to extend their campaign in order to do additional fundraising, they must notify the Town Clerk using the prescribed form (Form 6: Extension of Campaign Period) prior to December 31 of the election year.

11.15 By completing and submitting the prescribed form, a campaign may be extended until June 30 of the year following the election.

11.16 Where a campaign has been extended, the Candidate or RTPA must file two Financial Statements:

- A Financial Statement reflecting the campaign until December 31 (due on the last Friday in March following an election year); and
- A Supplementary Financial Statement reflecting information from the primary statement, with the addition of financial information from the extended campaign (due on the last Friday in September following an election year).

11.17 For clarity, obtaining an extension on a campaign period does not exempt a Candidate or RTPA from the regular filing deadline.

Filing Extension (granted by Superior Court)

11.18 A Candidate or RTPA may, before the last day for filing a Financial Statement and Auditor’s Report (if applicable), apply to the Superior Court of Justice to extend the time for filing the documents and, if the court is satisfied that 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 or RTPA to file the document, but the court shall not grant an

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extension of more than 90 days.

- 11.19 Where a Candidate or RTPA makes such an application to a court, they are required to notify the Town Clerk of same in writing prior to the filing deadline or supplementary filing deadline (whichever applies).
- 11.20 If the court grants an extension under the pertinent sections of the MEA, the late filing penalties set out in the *MEA* apply only if the Candidate or RTPA has not filed the document before the end of the extension.

Penalties

- 11.21 For Candidates: In the case of a default described in section 88.23 (1) of the MEA, the Candidate forfeits any office to which he or she was elected and the office is deemed to be vacant; and until the next regular election has taken place, the Candidate is ineligible to be elected or appointed to any office to which the MEA applies.
- 11.22 For RTPAs: In the case of a default described in section 88.27 (1) of the MEA, the RTPA is not entitled to register in relation to a subsequent election in the municipality until after the next regular election has taken place.
- 11.23 These penalties cease to apply if, no later than 2 p.m. on the day that is 30 days after the applicable day for filing the document, the Candidate or RTPA files the relevant document and pays the Town Clerk a late filing fee of \$500.

Posting of Financial Statements & Related Report

- 11.24 Candidate’s and RTPA’s Financial Statements are deemed to be public documents within the MEA and shall be posted to the Town’s website in their entirety, at least until the next term of Council has begun.
- 11.25 Financial Statements shall be posted to the Town’s website as soon as possible after they are submitted. In the event that a Candidate or RTPA submits a corrected Financial Statement, the existing Financial Statement on the Town’s website will be removed and replaced with the updated version. All previous versions of corrected Financial Statements shall be kept in hard copy only for recordkeeping purposes and will not be re-posted on the Town’s website. Late filings will be posted as received.
- 11.26 As soon as possible after April 30 in the year following a regular election, the Town Clerk shall make publicly available on the Town website a list of all Candidates and RTPAs for the election, with an indication of whether each has complied with the requirement to submit their Financial Statement.

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12 RELATED DOCUMENTATION

- 12.1 LIS-OP-050: Municipal & School Board Elections
- 12.2 LIS-WI-058: Candidate Nominations
- 12.3 LIS-WI-059: Third Party Advertiser Registration
- 12.4 Form 01: Candidate Nomination Form
- 12.5 Form 04: Candidate Financial Statement
- 12.6 Form 05: Financial Statement Subsequent Expenses
- 12.7 Form 06: Extension of Campaign Period
- 12.8 Form 07: RTPA Nomination Form
- 12.9 Form 08: RTPA Financial Statement
- 12.10 Form LIS-113: Appointment of Agent

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