

MUNICIPAL ELECTION COMPLIANCE AUDIT COMMITTEE PROCEDURES

The municipal Clerks responsible for the conduct of the election in the City of Brantford, County of Brant, Haldimand County and Norfolk County have worked co-operatively regarding the creation of:

- a Municipal Election Compliance Audit Committee (MECAC); and
- the establishment of administrative practices and committee procedures as required under the Municipal Elections Act (the Act).

These Rules of Procedure have been established ensuring that the duties and responsibilities of the MECAC are fulfilled in a fair, open and responsible manner, in accordance with Sections 88.33 to 88.37 of the Act. These procedures will govern the conduct of the MECAC when activated by any of the City of Brantford, the County of Brant, Norfolk County or Haldimand County.

1) DEFINITIONS

As used in this procedure, the following terms shall have the meanings indicated:

- a) **Act** shall mean the *Municipal Elections Act, 1996*
- b) **Applicant** shall mean an Elector who makes an application for a Municipal Election Compliance Audit pursuant to s.88.33 of the Act.
- c) **Application** shall mean a Municipal Election Compliance Audit application that has been properly completed and submitted to the Clerk pursuant to section 88.33(1) of the Act.
- d) **Candidate** shall mean a person who has been nominated under section 33 of the Municipal Election Act and whose election campaign finances are the subject of a Municipal Election Compliance Audit application.
- e) **Chair** shall mean the Member selected by the Members of the Municipal Election Compliance Audit Committee to preside over its meetings.
- f) **Clerk** shall mean the Municipal Clerk of the host municipality, or designate for the host municipality.
- g) **Committee** shall mean the Municipal Election Compliance Audit Committee.
- h) **Council** shall mean the Council of The Corporation of the City of Brantford, County of Brant, Norfolk County or Haldimand County as it pertains to the jurisdiction of the application.
- i) **Elector** shall mean a person eligible to vote in the municipal election.
- j) **Host Municipality** is the municipality where the application for a compliance audit is received. A host municipality can only receive applications for Candidates or registered Third Party Advertisers registered in the municipality.
- k) **Member** shall mean a person appointed to the Municipal Election Compliance Audit Committee by Council.

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- l) **Quorum** shall mean a majority of Members appointed to the Municipal Election Compliance Audit Committee.
- m) **Third Party Advertiser** shall mean a “registered third party” in relation to an election in a municipality - an individual, corporation or trade union that is registered under section 88.6 of the Municipal Election Act, 1996. Rules and procedures applied to Candidates shall also be applied to Third Party Advertisers.

2) GOVERNING LEGISLATION

- a) The Municipal Elections Act, 1996 provides for:
 - i. Candidate financial rules and regulations;
 - ii. Third Party Advertiser financial rules and regulations;
 - iii. Compliance Audit Committee procedures, guidelines.
- b) Meetings of the Committee shall be open to the public; however, there may be circumstances that a meeting or portion thereof may be closed to the public provided the subject matter being discussed complies with the provisions of Section 239 of the *Municipal Act, 2001*. Where it is deemed necessary, the committee may deliberate in private, the process for doing so shall be carried out in accordance with the host municipality’s Procedural By-law and the Municipal Elections Act, 1996, as amended.
- c) The terms of the *Municipal Conflict of Interest Act* apply to the Members of the Committee
- d) If these rules of procedure do not provide for a matter of procedure that arises during a meeting, the practice shall be determined by the Chair and the Clerk, with consideration of the Act, the *Municipal Act, 2001*, and the host municipality’s Procedural By-law, and they may do whatever is necessary and permitted by law to enable the Committee to effectively and completely adjudicate on the matter before it.

3) RECEIPT OF AN APPLICATION FOR A MUNICIPAL ELECTION COMPLIANCE AUDIT

- a) An application for a Municipal Election Compliance Audit may be filed, with the Clerk, if an Elector believes on reasonable grounds that a Candidate or a Third Party Advertiser is in contravention of the Act as it relates to campaign finances. The application shall be in writing and shall include the nature of the contravention, the Elector’s belief, the reasons for the Elector’s belief and any supporting documentation.
- b) In accordance with the Act, the application must be filed with the Clerk of the municipality where the Candidate or Third Party Advertiser was registered within 90 days of the deadline for filing the financial statements under the *Act*.
- c) Within ten (10) days after receiving the application the Clerk shall circulate a copy of the application to the committee.
- d) The application submission details may be sent by an e-mail, or as deemed appropriate by the Clerk.

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4) MEETINGS

- a) The Clerk shall notify committee members as required when an application for the compliance audit is received or a meeting is otherwise required under the provisions of the Act.
- b) Committee meetings shall commence at a time and date to be set by the Clerk.
- c) Meetings of the Committee shall be held at a designated location within the host municipality's jurisdiction, as designated by the Clerk.
- d) A quorum is required at each meeting. If no quorum is present thirty (30) minutes after the time fixed for a meeting or should a quorum at a meeting be lost, the meeting shall stand adjourned.

5) NOTICES

- a) The Clerk shall give public notice of a Committee meeting in accordance with notice provisions contained within their respective Procedure By-law and Notice Policy, including notice on the host municipality's website.
- b) Where an application or auditor's report is to be considered at a meeting, the Clerk shall give written notice to the Applicant and Candidate or Third Party Advertiser of the time, place and purpose of a meeting and of the fact that if either party fails to attend the meeting the Committee may proceed in the party's absence.

6) AGENDA

- a) The Clerk shall be responsible for scheduling meetings, preparing agendas, distributing agendas to members of the Committee with supporting materials, attending meetings and taking minutes at in accordance with the provisions within their respective Procedure By-law and other legislated requirements.
- b) Before each meeting the Clerk shall provide an agenda to each Member, the Applicant and Candidate or Third Party Advertiser. The Agenda shall include a copy of any written submissions made by the Applicant or the Candidate or Third Party Advertiser.
- c) Where the agenda includes consideration of more than one application, each application will be dealt with by the Committee in its entirety before consideration of the next application, unless combined by motion.

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7) COMMITTEE CHAIR

- a) An inaugural meeting of the Compliance Audit Committee shall be held with the Committee members and representatives from each Clerks' Divisions to conduct an educational orientation session regarding the Compliance Audit process and to select a Chair and Vice-Chair to preside over meetings.
 - i. The inaugural meeting shall take place within the County of Brant.
- b) The Clerk shall call the inaugural meeting of the Committee to order for the purposes of conducting the orientation session. Once the orientation session is concluded, the floor will be open for nominating and selecting the Chair. Once chosen, the Chair shall preside over meetings. The subsequent item of business will be to select a Member as Vice Chair, to act as Chair when the Chair is absent or otherwise unable to act. While presiding, the Vice Chair shall have all the powers of the Chair.
- c) The Chair shall enforce the observance of order and decorum among the Members and the public at all Meetings.
- d) At all regular meetings, the Chair will read an opening statement outlining the procedure and format of the Committee meeting.
- e) Prior to consideration of an item on the agenda, the Chair will identify for those present the agenda item to be considered.
- f) The Clerk shall introduce the application that is before the committee.
- g) The Chair shall put to a vote all motions, which are moved and seconded or necessarily arise in the course of the proceedings and will announce the results.

8) COMMITTEE PROCEDURES – CONSIDERATION OF APPLICATION

- (a) The Chair shall announce the application to be considered and ask the applicant, candidate / third party advertiser and/or their agents to identify themselves by providing their names to the Clerk for the record.
- (b) The Clerk shall introduce the application and outline any relevant details / information relating to its status and applicable timelines.
- (c) The Chair shall declare a public hearing on the application open. During the public hearing portion of the meeting, Committee members may ask questions of the speaker, but may not debate the application.
- (d) The Chair shall invite the applicant to make a presentation on the application.

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- (e) The Chair shall invite the Candidate / Third Party Advertiser to make a presentation on the application.
- (f) The Chair shall open the meeting for any comments from the public regarding the application.
- (g) The Chair shall declare the public hearing on the application closed
- (h) The Committee shall consider the application, noting that deliberations may be held In Camera
- (i) The Committee will decide to either render its decision in the Open Session of the meeting, or may reserve a decision if further deliberation / information is required, noting the legislative time requirements.
- (j) If a second meeting is convened for further deliberation, the public hearing will only be re-opened if Committee resolves that further input is needed from the applicant, candidate / third party advertiser or a member of the public.
- (k) If the committee decides to grant the application, it shall, by resolution, appoint an auditor licensed under the Public Accounting Act, 2004 to conduct a compliance audit of the Candidate / Third Party Advertiser's campaign finances.

9) COMMITTEE PROCEDURES – CONSIDERATION OF AUDITOR'S REPORT

- a) Within 30 days of receiving the auditor's report, a meeting shall be convened to consider the report.
- b) The Auditor may present a summary of the auditor's report as previously submitted to Committee.
- c) The Members may, through the Chair, ask questions of the Auditor.
- d) The Chair shall invite the Applicant, Candidate, Third Party Advertiser or their authorized agent to make their presentation.
- e) The Members may, through the Chair, ask questions of the speaker(s).
- f) Following presentations, the auditor's report shall then be open for consideration by the Members only.
- g) In accordance with s. 88.33 (17) of the *Act*, the Committee shall consider the report and may:
 - i. commence a legal proceeding against the Candidate for any apparent contravention, if the report concludes that the Candidate appears to have contravened a provision of this *Act* relating to election campaign finances; or

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- ii. make a finding as to whether there were reasonable grounds for the application, if the report concludes that the Candidate does not appear to have contravened a provision of the *Act* relating to election campaign finances.

10) COMMITTEE DECISION

The decision of the committee and a brief written reason for the decisions will be made available in accordance with the provisions set out in the Act. The decision of the committee is final.

As soon as practicable after each meeting, the Clerk shall post a copy of the decision on the host municipality website.

11) MINUTES OF THE COMMITTEE

In accordance with the host municipality's Procedural bylaw, the Clerk shall prepare minutes of each meeting of the Committee.

The minutes of each meeting shall be adopted at a subsequent meeting.