



## **Terms of reference Election Compliance Audit Committee**

### **DEFINITIONS:**

#### Name:

The name of the committee is the “Election Compliance Audit Committee”, hereinafter called “committee”.

#### Act:

For the purpose of these terms of reference the Act referred to hereinafter is the *Municipal Elections Act, 1996*.

#### Clerk:

Means the clerk of the Corporation of the Town of Hawkesbury. The clerk is responsible to establish administrative practices and procedures for the committee and shall carry out any other duties required under this Act to implement the committee’s decisions.

### **COMMITTEE:**

#### Purpose:

An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate’s election campaign finances.

#### Term:

The committee must be established before October 1, 2010 and its term of office is the same as the term of office of the council that takes office following the next regular election, and the term of office of the members of the committee is the same as the term of the committee to which they have been appointed.

Mandate:

The powers and functions of the committee are set out in subsections 81 (3), (4), (7), (10) and (11) of the *Municipal Elections Act, 1996*. The committee shall be required to act as a quasi-judicial body.

Composition:

The committee shall be composed of three members appointed by council and shall not include:

- (a) employees or officers of the municipality;
- (b) members of the council; or
- (c) any persons who are candidates in the election for an office on council for the municipality.

Chair:

The committee members shall select a Chair from amongst its members at its first meeting.

Staffing and funding:

Staff from the clerk's office will provide administrative support to the committee. Members will receive a remuneration of \$50.00 for attendance at meetings. Administration costs will be taken from the clerk's operating budget.

Meetings:

Meetings of the committee shall be conducted in accordance with the open meeting requirements of the provisions in the *Municipal Act, 2001*. Notices and agendas will be posted on the municipality's website.

The quorum of the committee shall consist of two members.

**PROCEDURES AND APPLICABLE TIME FRAMES:**

Application:

An application for a compliance audit shall be made to the clerk of the municipality and it shall be in writing and shall set out the reasons for the elector's belief. It shall be made within the delay prescribed in subsection 81 (3) of the Act.

Processing:

Within 10 days after receiving an application, the clerk shall forward the application to the committee and provide a copy of the application to the council.

Within 30 days after receiving the application, the committee shall call a meeting to consider the application.

Decision:

The committee shall decide whether the application should be granted or rejected.

The committee's decision may be appealed at the Ontario Court of Justice within 15 days after the decision is made and the court may make any decision the committee could have made.

Auditor:

If the application is granted, the committee shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances.

The auditor appointed shall be licensed under the *Public Accounting Act, 2004* or any other persons prescribed by the Act.

The auditor shall promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of this Act relating to election campaign finances and shall prepare a report outlining any apparent contravention by the candidate.

The auditor is entitled to have access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality and has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the audit as if it were an inquiry under that Act.

The auditor shall submit his or her report to:

- (a) the candidate;
- (b) the council;
- (c) the clerk; and
- (d) the applicant.

Report to be forwarded to the committee:

Within 10 days after receiving the auditor's report, the clerk shall forward it to the committee.

The committee shall consider the report within 30 days after receiving it and may:

- a) if the report concludes that the candidate appears to have contravened a provision of this Act relating to election campaign finances, commence legal proceeding against the candidate for the apparent contravention;
- b) if the report concludes that the candidate does not appear to have contravened a provision of this Act relating to election campaign finances, make a finding as to whether there were reasonable grounds for the application.

**OTHER PROVISIONS:**

Legal actions:

The present procedure does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to election campaign finances.

Conflict of interest

Members of the committee shall be governed by the *Municipal Conflict of Interest Act* and shall disclose any pecuniary interest to the clerk and remove themselves from the meetings for the duration of the discussion and voting with respect to that matter.

Vacancy:

If a member loses its eligibility to sit on the committee, or if a seat on the committee becomes vacant, the clerk shall so inform council of the municipality at the next regular meeting. Council shall then decide what procedures shall be undertaken to fill the vacant seat if so required.

Council's authority:

If the auditor's report indicates that there was no apparent contravention, and the committee finds that there were no reasonable grounds for the application, the council is entitled to recover the auditor's costs from the applicant.

Christine Groulx  
Clerk  
July 14, 2010