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DOCUMENT TITLE: Meeting Procedures for Election Campaign Finance Compliance Audit Committee			NO.: ME-OP-002
AUTHORED BY:	Alexander Harras	ISSUE #	1
APPROVED BY:	Nicole Cooper	ISSUE DATE:	18 / 01 / 02

## 1 PURPOSE AND BACKGROUND

- 1.1 Section 88.37 (1) of the Municipal Elections Act, 1996 (hereafter referred to as the MEA) indicates that before October 1 of an election year, Council must establish a committee for the purposes of considering applications to request a compliance audit of a Candidate's or Registered Third Party Advertiser's election campaign finances. In addition, sections 88.34 and 88.36 of the MEA require the Clerk of a municipality to review the contributions reported on all Candidates' and Registered Third Party Advertisers' financial statements and prepare a report to the Compliance Audit Committee identifying instances of contributors who have contravened the contribution limits established in the MEA.
- 1.2 On November 20<sup>th</sup>, 2017, Council of the Town of Ajax passed By-law 70-2017 to establish the 2018-2022 Compliance Audit Committee. The Committee is comprised of 3 regular Members, with 1 Alternate Member to be called upon in the event of an absence.
- 1.3 The Clerk of the municipality is required to establish administrative practices and procedures for the Committee.

## 2 DEFINITIONS

- 2.1 Alternate Member – a person appointed as an alternate member to the Committee who is called upon to act only in the event that a regular Member is absent, resigns or is unable to act as a Member;
- 2.2 Applicant - an elector as defined under Section 88.33 (1) or 88.35 (1) of the *MEA* who applies for a compliance audit of a Candidate's or Third Party Advertiser's election campaign finances;
- 2.3 Application - an application for a compliance audit accepted by the Clerk pursuant to Section 88.33 (2) of the *MEA*;
- 2.4 Auditor - a qualified individual licensed under the *Public Accounting Act, 2004* appointed by resolution of the Committee for the purpose of conducting a compliance audit of a Candidate's or Third Party Advertiser's election campaign finances;
- 2.5 Auditor's Report – a report of the Auditor regarding the findings of an audit into the election campaign finances of a Candidate or Registered Third Party Advertiser;

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- 2.6 Candidate - the Candidate whose election campaign finances are the subject of an application for a compliance audit or a report prepared by the Clerk;
- 2.7 Chair - the Compliance Audit Committee Chair selected pursuant to the provisions contained in this procedure;
- 2.8 Clerk - the Clerk for the Town of Ajax or the Clerk's designate;
- 2.9 Clerk's Report - a report of the Clerk regarding identified instances of campaign contributors that have exceeded the applicable contribution limits under the *MEA*;
- 2.10 Committee - the Compliance Audit Committee of the Town of Ajax;
- 2.11 Contributor - an individual, corporation, or trade union who may make contributions to the campaign of a Candidate or Registered Third Party Advertiser;
- 2.12 Council - the Council of the Town of Ajax;
- 2.13 MEA - the *Municipal Elections Act, 1996*, as amended;
- 2.14 Member - a regular member of the Town of Ajax Compliance Audit Committee or the Alternate Member when called upon to act;
- 2.15 Registered Third Party Advertiser - an individual, corporation or trade union that is registered under Section 88.6 of the *MEA* and whose campaign finances are the subject of an application for a compliance audit.

### **3 CUSTOMER**

- 3.1 Candidates, Third Party Advertisers, electors, members of the public, Contributors, Applicants.

### **4 LEVEL OF SERVICE**

- 4.1 The Compliance Audit Committee will adhere to all statutory timeframes established in the *MEA*, as well as the timeframes established in Sections 11 and 16 of this policy.

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**5 QUALITY RECORDS**

- 5.1 Meeting Agendas and Minutes
- 5.2 Applications for Compliance Audit
- 5.3 Auditor’s Report
- 5.4 Clerk’s Report
- 5.5 Candidates’ Financial Statements
- 5.6 Third Party Advertisers’ Financial Statements
- 5.7 Written reasons

**6 RULES AND SUSPENSION OF THE RULES**

- 6.1 The rules in this procedure shall be observed in all meetings of the Committee. The Committee may, by unanimous consent, waive any rules of procedure contained herein, as it considers appropriate.

**7 MATTERS NOT CONTAINED WITHIN RULES**

- 7.1 If these rules do not provide for a matter of procedure that arises during a meeting, the practice shall be determined by the Chair and the Chair may do whatever is necessary and permitted by law to enable the Committee to effectively and completely adjudicate the matter(s) before it.

**8 MEETINGS**

- 8.1 The Committee shall meet initially at the request of the Clerk.
- 8.2 A meeting (or multiple meetings, if required) of the Committee shall be held within thirty (30) days of the Committee receiving a report from the Clerk under Sections 88.34 and 88.36 of the *MEA*, in order to consider the report identifying any apparent instances of over-contribution to municipal campaigns.
- 8.3 A meeting shall also be held in accordance with the provisions of Section 88.33 of the *MEA* in the event that an application for a compliance audit has been received. The date and time of the meeting shall be determined by the Clerk, in consultation with the Members, and communicated directly to the Members.

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- 8.4 Meetings of the Committee shall be held at the Town of Ajax Town Hall or such other location as the Clerk deems appropriate.
- 8.5 Meetings of the Committee shall commence at a time and date to be set by the Clerk, and be adjourned on a majority vote of the Committee.
- 8.6 The Clerk shall record decisions of the Committee in the meeting minutes and shall carry out any other duties required under the *MEA* to give effect to the Committee's decisions.
- 8.7 Meetings of the Committee shall be conducted in public and in accordance with the open meeting requirements within the *Municipal Act, 2001* and *MEA*, subject to a resolution passed by the Committee to meet in closed session for a purpose authorized by Section 239 of the *Municipal Act, 2001*.

**9 CODE OF CONDUCT**

- 9.1 Though the Compliance Audit Committee is not considered an Advisory Committee, Members of the Compliance Audit Committee are required to review, sign, and abide by the Town of Ajax Code of Conduct for Advisory Committees (LIS-050).

**10 COMMITTEE CHAIR**

- 10.1 At its first meeting, the Committee shall elect one of its Members to serve as Chair for a term coinciding with the term of Council, or until a successor is appointed. When the Chair of the Committee is absent through illness or otherwise, the Committee may appoint another Member as Acting Chair, including the Alternative member, if called upon to serve for that meeting. While presiding, the Acting Chair shall have all the powers of the Chair.
- 10.2 If the Chair of the Committee resigns as a Member or resigns as the Chair of the Committee, the Committee shall appoint another Member as Chair for the balance of the term of Council or until a successor is appointed. The Clerk shall determine whether an appointment to replace the outgoing Member for the remainder of the term is necessary.
- 10.3 The Chair is the liaison between the Committee and the Clerk on matters of procedure and process.
- 10.4 The Chair shall enforce the observance of order, decorum, and the rules of debate among the

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Members and those persons in attendance at a meeting.

## **11 AGENDA**

- 11.1 Before each meeting, the Clerk shall distribute electronically an agenda to each Member, and post the agenda on the Town website at least two (2) business days prior to the scheduled meeting time. Failure to meet this requirement will mean that the meeting cannot occur.
- 11.2 The agenda shall include a copy of any reports to be considered at the meeting, and any written submissions received by the Clerk at least five (5) business days prior to the meeting, which meet the criteria outlined in Section 14.8.

## **12 MINUTES**

- 12.1 The Clerk shall prepare minutes of each meeting of the Committee, and shall distribute and post the minutes as soon as they are available. The Committee Members shall approve the draft minutes of each meeting at the subsequent meeting.

## **13 QUORUM AND USE OF ALTERNATE MEMBER**

- 13.1 A quorum for a meeting of the Committee shall be more than 50%, being 2 Members.
- 13.2 If a Member is unable to attend a meeting or unable to act as Member, the Clerk shall invite the Alternate Member to serve in his or her place for the purposes of maintaining a full complement of Members present. While business may be properly advanced with only two Members present, it is most desirable to have three Members present.
- 13.3 When called upon to sit at a Committee meeting, the Alternate Member shall have all the same duties and powers as a regular Member.
- 13.4 When he or she is called upon, the Clerk and/or Chair shall take the necessary measures to ensure the Alternate Member is properly briefed on all matters pertinent to the Committee's business.
- 13.5 There shall be only a maximum of three (3) voting Members at each meeting of the Committee. The Alternate Member shall only be considered a voting Member with all the rights and privileges

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of regular Members of the Committee where a regular Member is absent.

- 13.6 Where the Alternate Member is sitting at a Committee meeting and the previously absent regular Member arrives, the regular Member shall not take the place of the Alternate Member and the Alternate Member shall continue to serve for the remainder of the meeting.
- 13.7 If no quorum is present fifteen (15) minutes after the time fixed for a meeting of the Committee, or the resumption of a meeting after an adjournment, or should a quorum at a meeting be lost for a period of fifteen (15) consecutive minutes, the Clerk shall record the name of the Members present and the meeting shall stand adjourned until the next meeting scheduled by the Clerk.

#### **14 COMMITTEE PROCEDURE AND ORDER OF BUSINESS**

- 14.1 The Chair will lead the Committee through the agenda until the consideration of all matters has been completed.
- 14.2 Opening Statement - Where the agenda includes consideration of an Application or Clerk's Report, the Chair will read an opening statement outlining the procedure and format of the Committee meeting.
- 14.3 Conflict of Interest – Members will be given the opportunity to declare a conflict of interest with respect to a matter contained in the meeting agenda, which will be recorded in the minutes along with a description of the nature of the conflict. Members that declare a conflict of interest will be required to submit to the Clerk a written statement of the interest and its general nature, and the Clerk shall include such written statement in a registry available to the public.
- 14.4 Approval of Minutes from Previous Meeting – The draft minutes from the previous meeting will be included in the agenda for approval, and need not be read aloud.
- 14.5 Presentations – Presentations will be permitted only by an appointed auditor, legal counsel for the Committee, a trainer, or the Clerk. There shall be no time limit for presentations, however, presenters are encouraged to be brief and concise.
- 14.6 Delegations – Delegations will only be permitted from the following parties or their respective agents: the Applicant, the Candidate, the Registered Third Party Advertiser, or a Contributor identified within the Clerk's Report on over-contributions. Delegates must provide their name and

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contact information to the Clerk. Each Delegation shall be permitted to speak for a maximum of 10 minutes, however, the Committee may grant additional time by suspending the rules pursuant to Section 6. Members may ask questions of the Delegation but may not enter into debate with the Delegation.

- 14.7 Reports – The Committee will consider any written reports prepared by the Clerk, the Auditor or legal representative pursuant to Section 17.
- 14.8 Written Submissions – The Committee will consider any written submissions received from interested parties. The Clerk shall include written submissions and correspondence in the agenda, provided that it is legibly written or typed, signed by at least one person, received in time for publication in the agenda, does not contain any obscene or offensive language, and is pertinent to the matters before the Committee. Persons making written submissions are not permitted to address the Committee verbally, except for the permitted parties listed under Section 14.6.
- 14.9 Discussion/Debate - The Committee will consider an Application or Clerk’s Report and render a decision pursuant to the authority provided by the relevant sections of the *MEA*.
- 14.10 Adjournment – Following the disposition of all business before the Committee, the meeting shall be adjourned.

**15 RULES OF DEBATE, MOTIONS, AND VOTING**

- 15.1 The Chair shall preserve order and decorum and decide questions of order and procedure.
- 15.2 When two or more Members wish to speak, the Chair shall designate the Member who has the floor.
- 15.3 Any Member may propose a motion on the matter then under consideration, which the Clerk shall record in writing.
- 15.4 A seconder is not required in order to put a motion on the floor.
- 15.5 Every Member present at a meeting of the Committee when a question is put shall vote on the question by show of hands, unless prohibited by statute, in which case the fact of the prohibition shall be recorded in the minutes of the meeting.

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15.6 A recorded vote may be held at the request of any Member and will be administered by the Clerk.

15.7 In the event of a tie, the motion shall be deemed to have been lost.

## 16 NOTICE PROVISIONS

16.1 The Clerk shall publish notice of a Committee meeting on the Town's website at least two (2) business days prior to the scheduled meeting time. Publication of the agenda shall constitute public notice of the meeting. Failure to meet this notice requirement will mean that the meeting cannot occur.

16.2 Where an Application or Clerk's Report will be considered at a meeting, the Clerk shall give reasonable notice in writing to the involved Applicant, Candidate, Registered Third Party Advertiser, or Contributor, with sufficient time to enable those parties to request a Delegation and/or make a written submission. Such notice shall identify the time, place and purpose of the meeting and the fact that if any party fails to attend the meeting, the Committee may proceed in the party's absence and the party will not be entitled to further notice in relation to the meeting (except for receiving a copy of the Decision). The notice shall include the content of the Application or Clerk's Report.

16.3 The Clerk shall forward written notice of the Committee's decision to the affected Applicant, Candidate, Registered Third Party Advertiser, or Contributor.

## 17 LEGAL ASSISTANCE AND ADVICE

17.1 Upon request of the Committee, the Clerk shall arrange for the Town's Solicitor to provide general advice on matters such as the Committee's role, interpretation of legislation, matters of procedure, etc.

17.2 Where the Committee determines that it requires legal assistance in respect to a specific application or a contravention identified in the Clerk's report, the Clerk and the Chair shall jointly arrange for the services of an outside solicitor with the appropriate expertise.



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**18 CONSIDERATION OF APPLICATION FOR A COMPLIANCE AUDIT**

- 18.1 In accordance with Section 88.33 (17) of the *MEA*, within thirty (30) days of receipt of an Application, the Committee shall decide whether to grant or reject the Application, and the Committee shall provide brief written reasons for its decision which shall be made publicly available and shall be given to all involved parties. A member voting against the majority has the right to include a dissenting opinion within the written reasons, if they choose to.
- 18.2 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's or Registered Third Party Advertiser's election campaign finances.

**19 AUDITOR**

- 19.1 The Auditor shall promptly conduct an audit of the Candidate's or Registered Third Party Advertiser's election campaign finances to determine whether they have complied with the provisions of the *MEA* relating to election campaign finances, and shall prepare an Auditor's Report outlining any apparent contravention by the Candidate or Registered Third Party Advertiser.
- 19.2 The Auditor shall submit the Auditor's Report to the Candidate or Registered Third Party Advertiser, the Applicant, and the Clerk. Within ten (10) days of receiving the Auditor's Report, the Clerk shall distribute the report to the Committee.
- 19.3 The Auditor shall have all the powers as set out in Section 88.33 (15) of the *MEA*.

**20 AUDITOR'S REPORT AND COMMITTEE'S DECISION**

- 20.1 In accordance with Section 88.33 (17) of the *MEA*, the Committee shall consider the Auditor's Report within thirty (30) days of receiving it.
- 20.2 If the Auditor's Report concludes that the Candidate or Registered Third Party Advertiser appears to have contravened the provisions of the *MEA* relating to election campaign finances, the Committee shall decide whether to commence a legal proceeding against the Candidate or Registered Third Party Advertiser for the identified contravention(s). The Committee shall provide brief written reasons for its decision to commence or not to commence legal proceedings, and

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such written reasons shall be made publicly available and shall be distributed to all involved parties. A member voting against the majority has the right to include a dissenting opinion within the written reasons, if they choose to.

**21 CONSIDERATION OF CLERK’S REPORT**

21.1 In accordance with Sections 88.34 (8) and 88.36 (5) of the *MEA*, within thirty (30) days of receiving the Clerk’s Report regarding any over-contributions from Contributors, the Committee shall decide whether to commence a legal proceeding against a Contributor for an apparent contravention of the provisions of the *MEA*. The Committee shall provide brief written reasons for its decision to commence or not to commence legal proceedings, and such written reasons shall be made publicly available and shall be given to all involved parties. A member voting against the majority has the right to include a dissenting opinion within the written reasons, if they choose to.

21.2 If the Committee decides to commence legal proceedings against a Contributor, it shall, by resolution, appoint a legal representative to pursue prosecution of the contravention.

**22 ASSISTANCE BY CLERK AND/OR TOWN SOLICITOR WITH WRITTEN REASONS**

22.1 The Clerk and/or Town Solicitor may assist the Committee by providing general advice in respect to the development of written reasons, or may provide templates or examples. However the Clerk and/or Town solicitor shall not offer comment or advice on the substance of written decisions.

**23 RELATED DOCUMENTATION**

- 23.1 *Municipal Elections Act*, 1996, S.O. 1996, c. 32
- 23.2 *Municipal Act*, 2001, S.O. 2001, c. 25
- 23.3 *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22
- 23.4 By-law 070-2017 establish the 2018-2022 Compliance Audit Committee and Terms of Reference