

Municipal Election Compliance Audit Committee Rules of Procedure



Background

- a) Subsection 88.37(1) of the *Municipal Elections Act, 1996* (the “MEA”) requires municipal councils to establish a compliance audit committee before October 1 of an election year.
- b) Subsection 88.37(6) of the MEA requires the Municipal Clerk to establish administrative practices and procedures for the Committee. The Clerk of the City of Guelph established these Rules of Procedure in accordance with that requirement.

1. Definitions

- 1.1. “Applicant” means an eligible Elector who makes an application under Section 88.33 of the MEA.
- 1.2. “Application” means an application for a compliance audit made to the Clerk as contemplated by the MEA.
- 1.3. “Auditor” means an auditor contemplated in Sections 88.33 to 88.37 of the MEA.
- 1.4. “Candidate” means the candidate whose election campaign finances are the subject of an Application.
- 1.5. “Chair” means the chair of the Committee elected pursuant to Section 4 of these Rules of Procedure.
- 1.6. “City” means The Corporation of the City of Guelph;
- 1.7. “Clerk” means the person referred to in Subsection 1(1) of the MEA as the Clerk, and appointed pursuant to Section 228 of the *Municipal Act, 2001*, and any designates.
- 1.8. “Committee” means the Municipal Election Compliance Audit Committee of the City of Guelph.
- 1.9. “Committee Counsel” means the independent legal counsel available to the Committee to provide legal advice to the Committee from time to time, including advice and assistance in their deliberations which is all subject to solicitor-client privilege.
- 1.10. “Committee Meeting” means an open meeting of the Committee to conduct business, including the review and consideration of any Matter arising from its jurisdiction under the MEA.
- 1.11. “Council” means the Council of the City of Guelph.

- 1.12. "Elector" means a person entitled to vote at a municipal election in the City of Guelph under the MEA.
- 1.13. "Electronic Participation" means the participation of a Compliance Audit Committee Member, Candidate, Registered Third Party Advertiser, Applicant, Auditor or Agent via electronic means, who shall have the same rights and responsibilities as if they were in physical attendance.
- 1.14. "Matter" means all the proceedings, deliberations and decisions, relative to an Application and Auditor's Report, pursuant to the MEA.
- 1.15. "MEA" means the *Municipal Elections Act, 1996*, as amended.
- 1.16. "Parties" means, with respect to an Application, the Applicant and either the Candidate or Registered Third Party Advertiser who are subject to the Application.
- 1.17. "Registered Third Party Advertiser" means an individual, corporation or trade union registered under Section 88.6 of the MEA.
- 1.18. "Representative" means a person authorized under the *Law Society Act*, or its By-laws to represent a Party before the Committee, including legal counsel or individuals authorized to provide legal services.
- 1.19. "Vice-Chair" means the Committee Vice-Chair elected under Section 4 of these Rules of Procedure.

2. Committee Procedural Discretion

- 2.1. The proceedings of the Committee, the conduct of its members and the calling of meetings shall be governed by the provisions of these Rules of Procedure.
- 2.2. Despite Subsection 2.1, a procedural requirement under these Rules of Procedure may be varied or suspended, as appropriate, to ensure that the real questions in issue are determined in a just manner. Such suspension of the Rules of Procedure shall require a majority vote of two-thirds of the Committee Members.
- 2.3. Despite Subsection 2.2, the Chair may unilaterally decide whether to extend or abridge a designated person's speaking time under Subsections 15.2, 15.3 and 15.5 of these Rules of Procedure.

3. Issues not dealt with in the Rules of Procedure

- 3.1. If a procedural issue arises in a Committee Meeting that these Rules of Procedure do not contemplate, the Committee shall decide the issue. The Committee may make whatever procedural ruling it deems necessary and permitted by law to enable it to effectively and completely deal with the Committee's business. Unless otherwise required by these Rules of Procedure,

the Committee's determinations, and decisions as to procedure pursuant to this rule shall be determined by a simple majority vote.

4. Duties of the Chair

- 4.1. As its first Committee Meeting, the Committee shall elect one of its Members as Chair and one of its Members as Vice-Chair for the 2022-2026 Term of Council and until a successor is appointed. When the Chair is absent or otherwise unable to act, the Vice-Chair shall preside and shall have all the powers and duties of the Chair.
- 4.2. The Chair and Vice-Chair shall be elected by a majority of the Committee Members present.
- 4.3. If the Chair or Vice-Chair resigns as a Committee Member or resigns as the Chair or Vice-Chair of the Committee, the Committee shall elect another Member as Chair or Vice-Chair for the balance of the Term of Council and until a successor is appointed.
- 4.4. The Chair is the liaison between the Committee Members and the Clerk on matters of policy and process.
- 4.5. The Chair shall enforce the observance of these Rules of Procedure as well as order and decorum among the Committee Members, Parties and the public at all Committee Meetings.
- 4.6. The Chair shall receive and submit, in the proper manner, all motions presented by the Committee Members.
- 4.7. The Chair shall put to a vote all motions, which are moved or necessarily arise in the course of the proceedings, and shall announce the result.
- 4.8. The Chair shall adjourn the Committee Meeting when the business of the Committee is concluded.

5. Duties of Committee Members

- 5.1. Each Committee Member shall have the following duties:
 - 5.1.1. to deliberate on the business submitted to the Committee;
 - 5.1.2. to be present throughout a Matter;
 - 5.1.3. to vote when a motion is put to a vote; and
 - 5.1.4. to respect the Rules of Procedure and any guidelines for Committee Members.

6. Duties of the Clerk or Designate

- 6.1. The Clerk may delegate administrative responsibilities to another individual.

- 6.2. It shall be the duty of the Clerk or designate to:
- 6.2.1. give notice of each Committee Meeting together with an agenda of the items to be considered;
 - 6.2.2. record in the Committee Meeting Minutes the motions, resolutions, directions, votes, a summary of oral submissions and any actions to be taken on items at the direction of the Committee;
 - 6.2.3. attach to and publish with the minutes any written decision and reasons issued;
 - 6.2.4. provide a copy of the Committee's decisions under Section 21 of these Rules of Procedure, as well as brief written reasons by the Committee to the Parties as required by the MEA; and,
 - 6.2.5. perform such other functions as may be required from time to time in order to facilitate the Committee Meeting and to implement the decisions of the Committee.

7. Committee Meetings

- 7.1. The Committee shall meet at the request of the Clerk.
- 7.2. The Clerk shall summon a Committee Meeting when there are Applications made to the Clerk which have not previously been considered by the Committee.
- 7.3. Committee meetings shall be held at City Hall or such other location as the Clerk deems appropriate.
- 7.4. Committee meetings may include electronic participation at the discretion of the Clerk, and this includes Committee meetings in closed session. For greater certainty, a Committee Meeting may be held in-person, virtually or in a hybrid in-person/virtual format. Individual rules of debate and conduct at meetings, may be modified as required, to facilitate electronic participation in meetings.
- 7.5. Committee Meetings shall commence at a time and date set out in the notice and agenda pursuant to Sections 8 and 9 of these Rules of Procedure and shall be adjourned by the Chair on a majority vote of the Committee.
- 7.6. Committee Meetings under Sections 88.33 and 88.35 of the MEA shall be open to the public, but the Committee may deliberate in private as needed and will follow the procedures for closed meetings in accordance with section 239 of the *Municipal Act, 2001*.
- 7.7. All Committee Meetings, save and except for Committee deliberations, will be open to the public.
- 7.8. Committee Meetings will be video and audio recorded and published to the City's website.

8. Agenda

- 8.1. Seven (7) calendar days before each Committee Meeting, the Clerk shall provide an agenda to each Committee Member.
- 8.2. On the last business day of the week prior to the Committee Meeting, the Clerk shall provide a revised agenda to each Committee Member advising the Committee of the names of those who wish to make oral submissions to the Committee, and which contains the written submissions received relating to an agenda item.
- 8.3. The Clerk shall provide, together with the agenda and revised agenda, a copy of any Application(s) and/or Auditor's Report(s), as well as any written submissions made by the Applicant, Candidate and/or Registered Third Party Advertiser, in relation to an Application under consideration at the Committee Meeting.
- 8.4. A copy of the agenda and revised agenda shall be published on the City's website.
- 8.5. The first items of business on each agenda shall be the declaration of any pecuniary interest pursuant to the *Municipal Conflict of Interest Act*.

9. Notice

- 9.1. The Clerk shall give reasonable notice to the Parties, and public, of the time, place and purpose of the Committee Meeting and of the fact that:
 - 9.1.1. if any of the Parties fails to attend the Committee Meeting, the Committee may proceed in the absence of any such Party, and
 - 9.1.2. any Party that failed to attend will not be entitled to further notice in relation to the Matter or subsequent meetings at which the Matter is considered.
- 9.2. For Applications for audits considered by the Committee relating to a Candidate or Registered Third Party Advertiser, the Clerk shall provide a copy of the Application to the Candidate or Registered Third Party Advertiser who is subject of the Application at or about the same time that the Applications are forwarded to the Committee and they shall be given a reasonable opportunity to respond in writing and/or orally at a Committee Meeting. The written response, if any, shall be submitted to the Clerk as soon as possible prior to the Committee Meeting at which the Application will be considered, and received no later than 10:00 a.m. on the last business day of the week prior to the Committee Meeting.
- 9.3. For Auditor Reports considered by the Committee relating to a Candidate or Registered Third Party Advertiser:
 - 9.3.1. The Auditor shall submit the report to the Candidate or Registered Third Party Advertiser, who shall be given the opportunity to respond in writing and/or orally at a Committee Meeting, and to the Clerk. The written

response, if any, shall be submitted to the Clerk as soon as possible prior to the Committee Meeting at which the Auditor's Report will be considered, and received no later than 10:00 a.m. on the last business day of the week prior to the Committee Meeting.

- 9.3.2. The Clerk shall provide a copy of the Application and Auditor's Reports to the Committee.
- 9.4. The Clerk shall distribute any written submissions received to Committee Members before or during a Committee Meeting, including those of a Candidate or Registered Third Party Advertiser, in relation to an Application, Auditor's Report, or other items on an agenda.
- 9.5. Notices under this Section shall be provided to:
 - 9.5.1. The Applicant by email, if an email address is provided in the Application, or by mail to the mailing address provided in the Application.
 - 9.5.2. To the Candidate or Registered Third Party Advertiser by email, if any email address was provided in their nomination or registration form, or by mail to the mailing address provided in their nomination or registration form.
 - 9.5.3. To the public, by posting the Committee Meeting agenda on the City's website.

10. Quorum

- 10.1. A majority of the Committee Members constitutes a quorum at Committee Meetings.
- 10.2. The Committee shall not consider any business if a quorum is not present.
- 10.3. If no quorum is present 15 minutes after the time fixed for a Committee Meeting or the resumption of a Committee Meeting after an adjournment, or should a quorum at a Committee Meeting be lost for a period of 30 consecutive minutes, the Clerk shall record the names of the Committee Members present and the Committee Meeting shall stand adjourned until the next meeting date scheduled by the Clerk. This clause shall also apply if quorum is lost during a meeting because of technology issues.
- 10.4. If neither the Chair nor the Vice-Chair has arrived 15 minutes after the time the Committee Meeting is to start and, if a quorum is present, one of the other Committee Members may be appointed as Presiding Officer for the duration of the Committee Meeting or until the arrival of the Chair or Vice-Chair.
- 10.5. The Committee Member to be appointed as Presiding Officer under Subsection 10.4 shall be elected by a majority of the Committee Members present.
- 10.6. If the Committee Members referred to in Subsection 10.4 cannot reach a majority vote to appoint a Presiding Officer, the Committee Meeting shall stand adjourned until the next meeting day scheduled by the Clerk.

11. Opening Statement

- 11.1. Where the agenda includes consideration of an Application or Auditor's Report, the Chair, Vice-Chair or Presiding Member, as the case may be, will read an opening statement outlining the procedure and format of the Committee Meeting.

12. Motions

- 12.1. Following the opening statement and before considering the substance of agenda items, any Committee Member may make preliminary motion with respect to any business properly before the Committee, including motions to change the order of business or to defer an agenda item.

13. Committee Business

- 13.1. Prior to consideration of an item on the Committee agenda, the Chair will identify for those present the agenda item to be considered.

14. Introduction and Recording of Parties Present

- 14.1. Prior to consideration of an Application or Auditor's Report, the Chair shall request that any Parties present identify themselves and that they provide their names and contact information to the Clerk prior to leaving the meeting.

15. Consideration of an Agenda Item

- 15.1. The following designated persons, in relation to an agenda item, shall be permitted to make written and/or oral submissions to the Committee:
 - 15.1.1. the Applicant;
 - 15.1.2. the Candidate;
 - 15.1.3. the Registered Third Party Advertiser;
 - 15.1.4. a representative of an Applicant, Candidate, or Registered Third Party Advertiser;
 - 15.1.5. any individual who has been designated by the Applicant, Candidate, or Registered Third Party Advertiser, and who can give an account of something seen, heard, or experienced relevant to the agenda item;
 - 15.1.6. the Clerk, with respect to any reports;
 - 15.1.7. City staff or external consultants retained by the City;
 - 15.1.8. the City Solicitor; and,
 - 15.1.9. a Committee-appointed Auditor.

- 15.2. Each designated person outlined in Subsection 15.1 shall register with the Clerk by 10 a.m. on the last business day of the week prior to the Committee Meeting, and may speak to the item for up to ten minutes.
- 15.3. Despite Subsection 15.2, if an Applicant, Candidate or Registered Third Party Advertiser has a Representative present, that person and their Representative shall share a single ten minute period, which they may divide between them at their discretion.
- 15.4. Designated persons outlined in Subsection 15.1 shall submit written statements and documentary evidence to the Clerk no later than 10:00 a.m. on the last business day of the week prior to the Committee Meeting, to ensure its publication with the revised agenda.
- 15.5. Any person other than those indicated in Subsection 15.1 wishing to make oral submissions to the Committee, shall register with the Clerk by 10 a.m. on the last business day of the week prior to the Committee meeting, and may speak to the item for up to ten minutes.
- 15.6. Any person other than those indicated in Subsection 15.1 wishing to submit written statements to the Committee, shall submit them to the Clerk no later than 10:00 a.m. on the last business day of the week prior to the Committee Meeting, to ensure its publication with the revised agenda.
- 15.7. The Committee Members may ask questions of anyone who speaks at the Committee Meeting. Any such question and answer period shall be:
 - 15.7.1. solely for the purposes of receiving clarifications on the submission of any documents or other evidence tendered; and
 - 15.7.2. above and beyond the designated person's speaking time-limit referenced in Subsections 15.2, 15.3 and 15.5.
 - 15.7.3. despite Subsection 15.2, City staff or external consultants retained by the City, the City Solicitor and/or a Committee-appointed Auditor may, with leave of the Committee, speak for more than ten minutes when required to answer questions, offer clarification and/or provide advice to the Committee, either on procedure or on the item under discussion.

16. Adjournments

- 16.1. In order to respect Subsection 5.1.2 (duty of Committee Members to be present throughout the Matter) and to allow Parties to fully present evidence and/or submissions, there may be occasions where an adjournment may be required. Accordingly, a Committee Meeting or Matter may be adjourned from time to time by the Committee of its own motion or upon the request of a Party.
- 16.2. Any adjournment under Subsection 16.1 shall require the Committee to first afford the Applicant (or Representative), the Candidate (or Representative), and/or the Registered Third Party Advertiser (or Representative), the opportunity to make submissions on a potential adjournment.

17. Voting in Open Session

- 17.1. This section applies to votes that are held during Committee Meetings in open session.
- 17.2. Once the process set out in Section 15 (consideration of agenda items) has concluded, Committee Members may speak to each item for a maximum of five minutes, make motions and vote.
- 17.3. In the case of a tie vote, the motion or question shall be deemed to have been lost.
- 17.4. Every Committee Member present at a Committee Meeting when a question is put shall vote on the question, unless prohibited by law, in which case the fact of the prohibition shall be recorded in the minutes of the Committee Meeting.
- 17.5. No vote in open session shall be taken in Committee by ballot or by any other method of secret voting.
- 17.6. Any Committee Member, before the question is decided, may require that the vote be recorded.
- 17.7. If a vote is to be recorded as herein provided, the Clerk shall call the vote, announce the result, and record it in the minutes.
- 17.8. Despite subsections 17.2 and 17.4, a Committee Member may only participate in debate and vote on an item if they were present throughout the Matter.

18. Rules of Debate

- 18.1. When two or more Committee Members wish to speak, the Chair shall designate the Committee Member who first requested to speak as the Committee Member who speaks first.
- 18.2. No Committee Member shall:
 - 18.2.1. speak disrespectfully of a fellow Committee Member, Committee Counsel, or Auditor, or of staff, or of any Party or of their Representative appearing before the Committee;
 - 18.2.2. use offensive words;
 - 18.2.3. speak of any subject other than the subject in debate, or;
 - 18.2.4. disobey the Rules of Procedure, or a decision of the Chair or of the Committee on questions of order or practice or upon the interpretation of the Rules of Procedure.
- 18.3. A Committee Member may ask a question only of:
 - 18.3.1. a Committee Member who has already spoken on the matter under discussion;

- 18.3.2. any designated person who has already spoken on the item under discussion, pursuant to Subsection 15.1;
 - 18.3.3. the City's Solicitor;
 - 18.3.4. the Chair;
 - 18.3.5. an Official of the City; and
 - 18.3.6. any other person addressing the Committee pursuant to these Rules of Procedure.
- 18.4. A Committee Member may ask a question only for the purpose of obtaining information or clarification relating to the item under discussion.
- 18.5. Procedures for motions and order of voting shall be subject to the City's Procedural By-law.

19. Deliberations

- 19.1. The Committee shall consider each Application or Auditor's report at a Committee Meeting open to the public.
- 19.2. The Committee may reserve its decision and deliberate in private at a later time or date. The Committee, by motion or the Chair, may recess a meeting until called to order by the Chair in order to permit the Committee to deliberate in private on a Matter or Matters. The Committee may hear all Matters scheduled for the Committee Meeting and/or adjourn the Committee Meeting before deliberating on any or all of the Matters on the agenda.
- 19.3. If the Committee deliberates in private, any Committee Member is entitled to receive notice of the time and place of deliberations, and, subject to Subsection 5.1.2 (duty of Committee Members to be present throughout all proceedings and deliberations related to a Matter), to participate in the deliberations. A quorum of Committee Members must be present in order for the Committee to issue a decision under Section 21 in private deliberations. The City Solicitor may attend the private deliberations to provide legal advice and guidance to the Committee.
- 19.4. Recordings of private deliberations are not permitted. Other than a written decision and reasons of the Committee issued following private deliberations, Committee meeting minutes shall not incorporate a record of the Committee's private deliberations.
- 19.5. During private deliberations, the Committee may only consider evidence presented at an open meeting, or written submissions received by the Committee pursuant to Section 15. Should the Committee require additional information, it shall resume an open meeting.

20. Committee Decisions Respecting Applications for a Compliance Audit of a Candidate or Registered Third Party Advertiser

- 20.1. In accordance with Subsections 88.33(7) and 88.35(4) of the MEA, within 30 days of receipt of an Application, the Committee shall consider the Application and decide whether to grant or reject the Application.
- 20.2. If the Committee decides to grant the Application, it shall, by resolution or as part of its written decision and reasons, appoint an Auditor licensed under the *Public Accounting Act, 2004* to conduct a compliance audit of the Candidate or Registered Third Party Advertiser's election campaign finances.
- 20.3. At the request of the Committee, the Clerk may assist the Committee in locating and contacting available auditors to undertake the audit.
- 20.4. In accordance with Subsections 88.33(17) and 88.35(4) of the MEA, within 30 days after receiving a report of an Auditor prepared under Subsection 88.33(12) of the MEA, the Committee shall consider the report and decide whether to commence legal proceedings.

21. Decision

- 21.1. The Committee shall make decisions, as contemplated by the MEA as applicable, at its sole discretion.
- 21.2. For any decisions under Subsection 21.1, the Committee shall provide brief written reasons.
- 21.3. Any decisions under this section issued during a Committee Meeting shall be confirmed by motion, submitted in writing by the mover, and the motion shall include brief reasons for the decision.
- 21.4. A decision of the Committee issued following private deliberations shall be in writing, shall include brief written reasons for the decision, and shall identify any Committee Members dissenting or not present. All Committee Members present and not dissenting are deemed to support the majority decision and reasons. The Committee shall provide its written decisions (including brief reasons) to the Clerk.
- 21.5. The Clerk shall record the decisions (including brief reasons) of the Committee issued under this section and provide a copy of such decisions to the Parties, as required by the MEA, as soon as practical.