

## Joint Lanark County 2010 Election Compliance Audit Committee

Terms of Reference	
1	<p><u>Name</u></p> <p>The name of the Committee is the “Joint Lanark County 2010 Election Compliance Audit Committee” consisting of the following municipalities:</p> <ul style="list-style-type: none"> <li>Town of Carleton Place</li> <li>Town of Mississippi Mills</li> <li>Town of Perth</li> <li>Town of Smiths Falls</li> <li>Township of Beckwith</li> <li>Township of Drummond/North Elmsley</li> <li>Township of Lanark Highlands</li> <li>Township of Montague</li> <li>Tay Valley Township</li> </ul>
2	<p><u>Duration</u></p> <p>The term of office is from December 1, 2010 to November 30, 2014 to deal with applications from the 2010 election and any by-elections during Council’s term.</p>
3	<p><u>Mandate</u></p> <p>The powers and functions of the Committee are set out in Sections 81 and 81.1 of the <i>Municipal Elections Act, 1996</i> (Appendix “A”). The Committee will perform the functions relating to the compliance audit application process as outlined in the Act. These functions include:</p> <ul style="list-style-type: none"> <li>a. within 30 days receipt of a compliance audit application by an elector, consider the application and decide whether it should be granted or rejected;</li> <li>b. appoint a licensed auditor, if the application is granted;</li> <li>c. receive the auditor's report;</li> <li>d. within 30 days receipt of the auditor’s report, consider the report;</li> <li>e. if the report concludes that the candidate appears to have contravened a provision of the Act relating to election campaign finances, commence legal proceedings against the candidate for the apparent contravention;</li> <li>f. if the report concludes that the candidate does not appear to have contravened a provision of the Act relating to election campaign finances and the Committee finds that there were no reasonable grounds for the application, Council may recover the auditors costs from the applicant.</li> </ul>

4	<p><u>Membership</u></p> <p>The Committee will be composed of three (3) voting members, with three (3) alternate members that would assume all the rights and privileges of a voting member if called upon. Alternate members will be ranked and will be called upon to replace a voting member that has resigned from the Committee.</p> <p>Membership will be drawn from the following groups:</p> <ul style="list-style-type: none"> <li>a. accounting and audit - accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates;</li> <li>b. legal;</li> <li>c. professionals who in the course of their duties are required to adhere to codes or standards of their profession which may be enforced by disciplinary tribunals; and/or</li> <li>d. other individuals with knowledge of the campaign financing rules of the <i>Municipal Elections Act, 1996</i>.</li> </ul> <p>Municipal employees, members of Council and any candidates in the 2010 municipal election or in any by-election during the term of Council for any member municipality are ineligible to be appointed as a member of the Committee pursuant to subsection 81.1(2) of the of the <i>Municipal Elections Act, 1996</i>.</p> <p>Members will be required to take Accessible Customer Service training as a condition of appointment.</p>
5	<p><u>Membership Selection</u></p> <p>The terms of reference and application form will be posted on the municipal websites of the member municipalities. Staff will also contact and solicit those individuals as set out under section 4 of the Terms of Reference. In addition, advertisements will be placed in a local paper.</p> <p>All applicants will be required to complete an application form outlining their qualifications and experience. Staff may interview applicants who meet the selection criteria and prepare a short list of three voting members and three alternate members. Recommended candidates will be submitted to the Council of each member municipality for consideration.</p> <p>The selection process will be based upon clearly understood and equitable criteria. Members will be selected on the basis of the following:</p> <ul style="list-style-type: none"> <li>a. demonstrated knowledge and understanding of municipal election campaign financing rules;</li> <li>b. proven analytical and decision-making skills;</li> <li>c. experience working on a committee, task force or similar setting;</li> <li>d. availability and willingness to attend meetings; and</li> <li>e. excellent oral and written communication skills.</li> </ul>

	<p>Any members appointed must also agree in writing they will not be a candidate in the 2010 election or in any by-election during the term of Council for any member municipality. Failure to adhere to this requirement will result in the individual being removed from the Committee.</p>
6	<p><u>Conflict of Interest</u></p> <p>The principles of the <i>Municipal Conflict of Interest Act</i>, apply to this Committee. Failure to adhere to this requirement will result in the individual being removed from the Committee.</p> <p>To avoid a conflict, any person appointed to the Committee must agree in writing not to prepare or audit the election financial statements of any candidate for office for any of the member municipalities in the 2010 municipal election. Failure to adhere to this requirement will result in the individual being removed from the Committee.</p>
7	<p><u>Chair</u></p> <p>The Committee will select a Chair from amongst its members at its first meeting when a compliance audit application is received.</p> <p>The Chair is the liaison between the members and the Secretary of the Committee on matters of policy and process.</p> <p>The Chair shall enforce the observance of order and decorum among the Committee members and the public at all meetings.</p> <p>When the Chair is absent, the Committee may appoint another member as Acting Chair. While presiding, the Acting Chair shall have all the powers of the Chair.</p>
8	<p><u>Staffing and Funding</u></p> <p>The Clerk from the applicable member municipality shall act as Secretary to the Committee.</p> <p>The member municipality requiring the services of the Committee shall be responsible for all associated expenses.</p> <p>Committee Member Remuneration - \$150 per diem per meeting, plus mileage at a rate of \$0.50 cents per kilometre.</p>
9	<p><u>Meetings</u></p> <p>Meetings of the Committee will be conducted in accordance with the open meeting provisions of the <i>Municipal Act, 2001</i>.</p>

### *Timing of Meetings*

The first meeting will be called by the Clerk of the member municipality upon receipt of an application. The date and time of the meeting will be determined by the Clerk and communicated directly to the Committee members. Subsequent meetings will be held at the call of the Chair in consultation with the Clerk.

Committee activity shall be determined primarily by the number and complexity of applications for compliance audits that may be received. The frequency and duration of meetings will be determined by the Committee in consultation with the Clerk.

### *Meeting Location*

The Committee shall meet at the location determined by the member municipality.

### *Meeting Notices, Agendas & Minutes*

The agenda shall constitute notice. The Clerk of the member municipality requiring the services of the Committee shall cause notice of the meetings to be provided to members of the Committee a minimum of two (2) business days prior to the date of each meeting, not including weekends or holidays. The agendas and minutes of meetings shall be posted on the member municipality's website.

Minutes of each meeting shall outline the general deliberations and specific actions and recommendations that result.

### *Agenda Format*

1. Call to Order
2. Disclosure of Pecuniary Interest and General Nature Thereof
3. Consideration of Compliance Audit Application *or* Auditor's Report
4. Adjournment

### *Quorum*

Quorum for meetings shall consist of a majority of the members of the Committee.

If no quorum is present thirty (30) minutes after the time appointed for a meeting, the Clerk shall record the names of the members present and the meeting shall stand adjourned until the date of the next meeting.

### *Meeting Attendance*

Any member of the Committee, who misses three (3) consecutive meetings, without being excused by the Committee, may be removed from the Committee. The Committee must make recommendations, by a report to Council for the removal of any member.

	<p><i>Motions &amp; Voting</i></p> <p>A motion shall only need to be formally moved before the Chair can put the question or a motion can be recorded in the minutes.</p> <p>A motion shall be reduced to writing and shall be signed by the Chair and Secretary.</p> <p>Every Member present shall be deemed to vote against the motion if they decline or abstain from voting, unless disqualified from voting by reason of a declared pecuniary interest.</p> <p>In the case of a tie vote, the motion shall be considered to have been lost.</p> <p>The manner of determining the vote on a motion shall be by show of hands.</p> <p>The Chair shall announce the result of every vote.</p>
10	<p><u>Administrative Practices and Procedures</u></p> <p>The Terms of Reference constitute the Administrative Practices and Procedures of the Committee. Any responsibilities not clearly identified within these Terms of Reference shall be in accordance with Section 81 of the <i>Municipal Elections Act, 1996</i>.</p> <p>The Clerk at any time has the right to develop additional administrative practices and procedures.</p>

## APPENDIX "A"

### Municipal Elections Act, 1996 S.O. 1996, c. 32 (for reference only)

#### Compliance Audit Application & Committee

##### **Compliance audit Application**

**81. (1)** 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. 2009, c. 33, Sched. 21, s. 8 (44).

##### **Requirements**

**(2)** An application for a compliance audit shall be made to the clerk of the municipality or the secretary of the local board for which the candidate was nominated for office; and it shall be in writing and shall set out the reasons for the elector's belief. 2009, c. 33, Sched. 21, s. 8 (44).

##### **Deadline**

- (3)** The application must be made within 90 days after the latest of,
- (a) the filing date under section 78;
  - (b) the candidate's supplementary filing date, if any, under section 78;
  - (c) the filing date for the final financial statement under section 79.1; or
  - (d) the date on which the candidate's extension, if any, under subsection 80 (4) expires. 2009, c. 33, Sched. 21, s. 8 (44).

##### **Application to be forwarded to committee**

**(4)** Within 10 days after receiving the application, the clerk of the municipality or the secretary of the local board, as the case may be, shall forward the application to the compliance audit committee established under section 81.1 and provide a copy of the application to the council or local board. 2009, c. 33, Sched. 21, s. 8 (44).

##### **Decision**

**(5)** Within 30 days after receiving the application, the committee shall consider the application and decide whether it should be granted or rejected. 2009, c. 33, Sched. 21, s. 8 (44).

##### **Appeal**

**(6)** The decision of the committee may be appealed to 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. 2009, c. 33, Sched. 21, s. 8 (44).

### **Appointment of auditor**

(7) If the committee decides under subsection (5) to grant the application, it shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

### **Same**

(8) Only auditors licensed under the *Public Accounting Act, 2004* or prescribed persons are eligible to be appointed under subsection (7). 2009, c. 33, Sched. 21, s. 8 (44).

### **Duty of auditor**

(9) 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. 2009, c. 33, Sched. 21, s. 8 (44).

### **Who receives report**

(10) The auditor shall submit the report to,

- (a) the candidate;
- (b) the council or local board, as the case may be;
- (c) the clerk with whom the candidate filed his or her nomination;
- (d) the secretary of the local board, if applicable; and
- (e) the applicant. 2009, c. 33, Sched. 21, s. 8 (44).

### **Report to be forwarded to committee**

(11) Within 10 days after receiving the report, the clerk of the municipality or the secretary of the local board shall forward the report to the compliance audit committee. 2009, c. 33, Sched. 21, s. 8 (44).

### **Powers of auditor**

(12) For the purpose of the audit, the auditor,

- (a) is entitled to have access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality or local board; and
- (b) 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. 2009, c. 33, Sched. 21, s. 8 (44).

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is repealed and the following substituted:**

(b) has the powers set out in section 34 of the *Public Inquiries Act, 2009* and section 34 applies to the audit.

**See: 2009, c. 33, Sched. 21, ss. 8 (45), 13 (2).**

## **Costs**

(13) The municipality or local board shall pay the auditor's costs of performing the audit. 2009, c. 33, Sched. 21, s. 8 (44).

## **Power of committee**

- (14) 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 a 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. 2009, c. 33, Sched. 21, s. 8 (44).

## **Recovery of costs**

(15) If the report indicates that there was no apparent contravention and the committee finds that there were no reasonable grounds for the application, the council or local board is entitled to recover the auditor's costs from the applicant. 2009, c. 33, Sched. 21, s. 8 (44).

## **Immunity**

(16) No action or other proceeding for damages shall be instituted against an auditor appointed under subsection (7) for any act done in good faith in the execution or intended execution of the audit or for any alleged neglect or default in its execution in good faith. 2009, c. 33, Sched. 21, s. 8 (44).

## **Saving provision**

(17) This section 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. 2009, c. 33, Sched. 21, s. 8 (44).

## **Compliance audit committee**

**81.1** (1) A council or local board shall, before October 1 of an election year, establish a committee for the purposes of section 81. 2009, c. 33, Sched. 21, s. 8 (44).

## **Composition**

- (2) The committee shall be composed of not fewer than three and not more than seven members and shall not include,
- (a) employees or officers of the municipality or local board;
  - (b) members of the council or local board; or
  - (c) any persons who are candidates in the election for which the committee is established. 2009, c. 33, Sched. 21, s. 8 (44).

## **Term of office**

(3) The term of office of the committee is the same as the term of office of the council or local board 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. 2009, c. 33, Sched. 21, s. 8 (44).

**Role of clerk or secretary**

(4) The clerk of the municipality or the secretary of the local board, as the case may be, shall 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. 2009, c. 33, Sched. 21, s. 8 (44).

**Costs**

(5) The council or local board, as the case may be, shall pay all costs in relation to the committee's operation and activities. 2009, c. 33, Sched. 21, s. 8 (44).