

## **Terms of Reference for Niagara Compliance Audit Committee**

### 1. Authority

- 1.1 Section 81.1 of the *Municipal Elections Act, 2006* (“Act”) requires the council, before October 1<sup>st</sup> in an election year, to establish a compliance audit committee for the purposes of Section 81 of the said *Act* relative to a possible contravention of the election campaign finance rules.

### 2. Objectives

- 2.1 To establish a Joint Compliance Audit Committee (“Committee”) and process with the following potential participants (referred to as the “Joint Area”):

#### “Area Municipalities”

Regional Municipality of Niagara  
Town of Fort Erie  
Town of Grimsby  
Town of Lincoln  
City of Niagara Falls  
Town of Niagara on the Lake  
Town of Pelham  
City of Port Colborne  
City of St. Catharines  
City of Thorold  
Township of Wainfleet  
City of Welland  
Township of West Lincoln

#### “School Boards”

1. District School Board of Niagara
2. Niagara Catholic District School Board

- 2.2.1 Each Council/Board of the Joint Area will determine its participation in the Niagara Compliance Audit Committee and as such, will be referred to herein as “Joint Area Participants”.

- 2.3 To ensure compliance with Sections 81 and 81.1 of the *Act*.

### 3. Name

- 3.1 The Committee shall be named the “Niagara Compliance Audit Committee” hereinafter called “the Committee.”

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3.2 For the purpose of reference to the School Boards, modifications to certain terms used herein shall have a corresponding meaning to the Board, ie Council/Board, Clerk/Secretary, responding municipality/responding board.

4. Type of Committee

4.1 The Committee is a Statutory Committee.

5. Term

5.1 The term of the Committee shall be concurrent with the term of the office of the Council that takes effect 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.

5.2 The term of appointment shall be December 1<sup>st</sup> of the regular election year to November 30, of the next regular election year.

6. Duration

6.1 The Committee shall be established before October 1<sup>st</sup> of an election year.

6.2 The establishment of the Committee and terms of reference shall continue as set out herein from Council term to Council term until and unless determined otherwise by Council. However, the appointment of the members to the Committee shall be approved by each Council in the Joint Area prior to October 1<sup>st</sup> in each election year.

7. Mandate

7.1 An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of the *Municipal Elections Act, 1996* relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances.

7.2 The mandate of the Committee is to hear and determine all applications filed in accordance with Section 81 of the *Act*, in accordance with the procedures established by the Clerk under the *Act*. Any application which does not meet the legislative deadline for submission will not be presented to the Committee for review.

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- 7.3 The powers and functions of the Committee are set out in Section 81 of the *Act*. The Committee shall:
- (a) review and consider a compliance audit application received from an elector and decide whether it should be granted or rejected;
  - (b) if the application is granted, appoint an auditor to conduct a compliance audit;
  - (c) receive the auditor's report;
  - (d) consider the auditor's report and if the report concludes that the candidate appears to have contravened a provision of the *Act* relating to election campaign finances, decide whether legal proceedings against the candidate for the apparent contravention shall be commenced;
  - (e) if the report concludes that the candidate does not appear to have contravened a provision of the *Act* relating to election campaign finances, make a finding as to whether there were reasonable grounds for the application, and
  - (f) submit its findings to Council if the report indicates there was no apparent contravention and no reasonable grounds for the application and Council may recover the auditor's costs from the applicant.

8. Composition

- 8.1 The Committee shall be composed of a maximum of seven (7) members with membership drawn from the following stakeholder groups:
- (a) accounting and audit – accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates;
  - (b) academic – college or university professors with expertise in political science or local government administration;
  - (c) legal profession with experience in municipal law, municipal election law or administrative law;
  - (d) 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
  - (e) other individuals with knowledge of the campaign financing rules of the *Municipal Elections Act, 1996*.

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- 8.2 The Committee shall not include,
- (a) employees or officers of the municipality or local board;
  - (b) members of the council or local board;
  - (c) any persons who are candidates in the election for which the committee is established or family members or employees of same, or any person connected to a candidate through an employment, contractual, business or partnership relationship, or
  - (d) any person who is or intends to volunteer or seek employment to assist any candidate in the election for which the committee is established.
- 8.3 When an application has been filed under Section 81 of the *Act*, only three (3) of the seven (7) members of the Committee shall comprise the audit committee for the purposes of reviewing and considering the application.
- 8.4 The Clerk of the responding municipality shall determine the selection of the three (3) sitting members of the Committee from the pool of members based on availability.
- 8.5 To avoid possible conflict of interest, an auditor or accountant appointed to the Committee must agree in writing to not undertake the audits or preparation of the financial statements of any candidates seeking election to Council/Board of Joint Area Participants. Failure to adhere to this requirement will result in the individual being removed from the Committee.

**9. Member Selection and Appointment**

- 9.1 All persons interested in serving on the Committee shall complete an application form prescribed by the Clerk setting out their qualifications and experience.
- 9.2 A Nomination Committee consisting of a majority of the Clerks of the Joint Area Participants shall review the applications and submit a joint short list of candidates to their respective Councils for approval.
- 9.3 The member selection process shall be carried out by the Joint Area Participant Clerks on behalf of the School Boards. The School Boards shall be so notified of the short-list of candidates.

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- 9.4 Committee members shall be appointed by each Joint Area Participant Council.
- 9.5 In the event a vacancy occurs during the term, the municipality may rely on the remaining members to compose a committee of three (3) members.

10. Selection Criteria

- 10.1 Without limiting the foregoing, members shall be selected on the basis of the following:
  - (a) demonstrated knowledge and understanding of municipal election campaign finance rules;
  - (b) proven analytical and decision-making skills;
  - (c) experience working on a committee, administrative tribunal, task force or similar setting;
  - (d) availability and willingness to attend meetings;
  - (e) excellent oral and written communication skills.

11. Chair of Committee

- 11.1 The Committee members shall select a Chair form amongst its members at its first meeting.

12. Secretary to Committee

- 12.1 The Clerk of the responding municipality shall act as Secretary to the Committee.

13. Compensation

- 13.1 Members of the Committee shall receive an initial honorarium of \$100.00, including mileage, for attendance at a training session the costs of which shall be shared equally amongst the Area Municipalities and School Boards.
- 13.2 Members shall receive an honorarium of \$100.00 per meeting, plus mileage at the rate of the responding municipality.

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14. Costs and Funding

- 14.1 The responding municipality shall fund and pay all costs associated with the Committee, including the retention of an auditor and any costs incurred as a result of a decision of the Committee being challenged to the Ontario Court of Justice.
- 14.2 The Joint Area Participants shall share equally in the costs associated with advertising and training.
- 14.3 If the report indicates there was no apparent contravention and the Committee finds there were no reasonable grounds for the application, the Council or local board is entitled to recover the auditor's costs from the applicant.

15. Auditor

- 15.1 The Area Clerks shall issue a joint RFP for auditor services.
- 15.2 The Committee shall appoint an auditor.

16. Meetings

- 16.1 The Committee shall conduct its meeting in public subject to the need to meet in closed session for a purpose authorized by Section 239 of the *Municipal Act, 2001*.
- 16.2 The municipality's website shall be used to communicate meeting notices, agendas, minutes and decisions.
- 16.3 The Committee shall conduct its meetings in accordance with the responding municipality's Council Rules of Procedure By-law and the Statutory Powers Procedures Act, with modifications as necessary.

17. Conflicts

- 17.1 Committee members shall comply with the *Municipal Conflict of Interest Act* and shall disclose a pecuniary interest to the Secretary and absent him/herself from meetings for the duration of the consideration of the application, discussion and voting with respect to the matter.
- 17.2 In the event a member discloses a pecuniary interest in the application, the Clerk of the responding municipality shall select another member to replace him/her on the Committee.

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18. Practices and Procedures

- 18.1 The Clerk shall establish administrative practices and procedures for the Committee and shall carry out any other duties required under the *Act* to implement the Committee's decisions.