

THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

BY-LAW NO. 28/2022

Being a By-Law to Establish a Joint Municipal Election Compliance Audit Committee for The Corporation of The Municipality of Port Hope and Northumberland County Partner Municipalities and Repeal By-law 59/2018

WHEREAS sub-section 88.37(2) of the Municipal Elections Act, 1996, as amended, requires the Council to establish a Compliance Audit Committee, before October 1, 2022 of an election year for the purposes of Section 88.33 to Section 88.37 of the Municipal Elections Act, 1996;

AND WHEREAS the Municipality of Port Hope has been working with seven partner Municipalities in Northumberland County, being the Township of Alnwick-Haldimand, Municipality of Brighton, Town of Cobourg, Township of Cramahe, Township of Hamilton, and Municipality of Trent Hills in order to develop a joint Terms of Reference for a Joint Elections Compliance Audit Committee in order to streamline administrative processes and reduce overall costs for recruitment and training;

AND WHEREAS the Municipality of Port Hope is committed to ensuring a consistent, open and transparent process for receiving and processing compliance audit applications;

AND WHEREAS the Council of the Municipality of Port Hope deems it necessary to pass a By-law to establish an Election Compliance Audit Committee as per the Municipal Elections Act;

AND WHEREAS Council at their meeting held on May 3, 2022 considered Staff Report CS-06-22 re: Joint Municipal Election Compliance Audit Committee;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE ENACTS AS A BY-LAW AS FOLLOWS:

1. The Joint Municipal Election Compliance Audit Committee shall carry out its mandate and duties in accordance with the Municipality of Port Hope Procedural By-law.
2. That the Terms of Reference of the Election Compliance Audit Committee are set out in Schedule "A" attached hereto forming part of this By-law;
3. At such time as a by-law to appoint members to the JECAC is enacted by Council, that the 2022 Joint Municipal Election Compliance Audit Committee be deemed to be established in accordance with the Municipal Elections Act;
4. That this By-law shall come into force and take effect on the date of its passing.
5. That By-law 59/2018 is hereby repealed.

READ a FIRST, SECOND and THIRD time and finally passed in Open Council this 3rd day of May, 2022.

Bob Sanderson, Mayor

Brian Gilmer, Clerk

2022 Municipal and School Board Election
Joint Municipal Election Compliance Audit Committee
Terms of Reference

1. Name

The name of the Committee is the "Joint Municipal Election Compliance Audit Committee" ("the Committee")

2. Definitions

Clerk means the Clerk or secretary of the Participating Municipality, or their designate.

Participating Municipality means the Township of Alnwick-Haldimand, Municipality of Brighton, Town of Cobourg, Township of Cramahe, Township of Hamilton, Municipality of Port Hope, and Municipality of Trent Hills.

3. Mandate

The Committee is established pursuant to the requirements of Section 88.37 of the Municipal Elections Act, 1996, S.O., 1996, c.32, as amended ("the Act") for the Participating Municipalities.

The powers and functions of the Committee are set out in Section 88.33 to 88.37 of the Act.

4. Term

Pursuant to Section 88.37(5) of the Act, the term of appointment for the Committee shall be concurrent with the term of office of the council or local board elected in 2022 and shall therefore serve for four (4) years commencing on November 15, 2022 and concluding on November 14, 2026 or until such time the Committee has disposed of any remaining matters in accordance with the Act.

5. Composition

The Committee will be composed of a minimum of (3) three, maximum of five (5) members. Membership on the roster of appointed individuals will be drawn from the following stakeholder groups appointed to represent each of the seven Participating Municipalities:

- 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 – persons with knowledge of municipal law and enforcement;
- d) other individuals with knowledge of municipal campaign financing rules, quasi-judicial proceedings, and experience working on committees, boards, adjudicative bodies, task forces or similar settings.

As per the Act (Section 88.37(2)), composition shall not include:

- a) employees or officers of any Participating Municipality or a Participating Municipality's local board;
- b) members of the Participating Municipality's council or local board;
- c) any person who are candidates in the election for which the committee is established; or
- d) any persons who are registered third parties in a Participating Municipality in the election for which the Committee is established.

6. Membership Selection

The recruitment of persons to be included on the Committee shall be advertised in a local newspaper having general circulation and on the websites of the Participating Municipalities. Other recruitment measures may be initiated by the Clerks of the Participating Municipalities.

All applicants will be required to submit a letter of interest and a resume outlining how their skills/qualifications meet the requirements of the Committee and may be subject to further screening and an interview. The selection process will be determined by the Clerks of the Participating Municipalities. The final roster of appointed individuals will be provided to the Councils of the Participating Municipalities for approval by by-law.

Applicants must have the ability to understand and apply the election campaign finance provisions of the Act and must remain impartial to fulfill their responsibilities.

Preference will be given to candidates who have experience related to compliance audit activities or investigative or adjudicative processes.

The following criteria will be considered when appointing members:

- a) demonstrated knowledge and understanding of municipal election campaign financing rules;
- b) proven analytical and decision-making skills;
- c) experience working on a committee, task force or similar setting;
- d) demonstrated knowledge of quasi-judicial proceedings
- e) availability and willingness to attend meetings; and
- f) excellent oral and written communication skills

To avoid possible conflicts of interest, any accountants appointed to the Committee are not permitted to audit or prepare the financial statement of any candidate running for office on Municipal Council; and any 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 for any Participating Municipality.

7. Chair

At the first meeting of a Compliance Audit Committee on a particular report or application, the members shall appoint one member to act as Chair for the duration of the Committee's deliberations on those matters on the agenda. The Chair shall retain the role for all matters on the agenda at a meeting.

8. Meetings

Meetings will occur as needed and shall be conducted in accordance with the Act and the Compliance Audit Committee Rules of Procedure established by the Clerk (Schedule A).

9. Role of the Clerk

Staff from the Clerk's Office of the host Participating Municipality requiring the compliance audit review will provide administrative support to the Committee. All costs associated with Committee meetings shall be borne by the host municipality.

The Clerk of the relevant Participating Municipality will act as the main contact between the Committee, compliance audit applicant, candidate and registered third party. In accordance with Section 88.37 (6) of the Act, the Clerk shall carry out any duties required under the Act to implement the Committee's decisions.

10. Remuneration

Remuneration will be as follows:

\$600.00 retainer fee (costs will be shared equally by the Participating Municipalities) for those individuals on the roster. The retainer fee shall cover attendance at a mandatory training session and review of periodic updates or information supplied by the Clerk of any of the Participating Municipalities. Payment of the retainer fee covers the four (4) year term; and,

\$150.00 per meeting attended, plus mileage in accordance with the rate normally paid to employees of the applicable Participating Municipality. The per meeting rate shall cover review of background or agenda materials as required in preparation for a meeting. The meeting costs will be paid by the Participating Municipality requiring the services of the Committee.

Schedule A
Joint Municipal Election Compliance Audit Committee
Rules of Procedure

Preamble

In recognition of the provisions of Section 88.37 of the Municipal Elections Act, 1996, the Township of Alnwick-Haldimand, Municipality of Brighton, Town of Cobourg, Township of Cramahe, Township of Hamilton, Municipality of Port Hope, and Municipality of Trent Hills have established a Joint Compliance Audit Committee.

In accordance with Section 88.37(6) of the Municipal Elections Act, the following Rules of Procedure have been established for the 2022 Municipal Election Compliance Audit Committee to fulfill its duties in a fair, open and responsible manner.

The powers and functions of the Committee are set out in Section 88.33 to 88.37 of the Municipal Elections Act. These rules of procedure are supplementary to those outlined in the Act.

1. Background

- 1.1. At its meeting of May 3, 2022 the Municipality of Port Hope passed By-law XX/2022, hereby establishing the Joint Municipal Election Compliance Audit Committee for the Municipality of Port Hope and Northumberland County Partner Municipalities for the 2022-2026 Term, consisting of five (5) members in accordance with Sec. 88.37(2) of the Municipal Elections Act, 1996, as amended.
- 1.2. In accordance with Sec. 88.37(6), these Rules of Procedure have been established by the Municipal Clerk of the Municipality of Port Hope to ensure that the Joint Municipal Election Compliance Audit Committee may be able to fulfill its duties and responsibilities in a fair, open and responsible manner.

2. Definitions

- 2.1. **Act** – The Municipal Elections Act, 1996, S.O. 1996, c.32, as amended.
- 2.2. **Application** – an application properly completed and submitted to the Clerk pursuant to Section 88.33(2) and 88.35(2) of the Act.
- 2.3. **Auditor** – person appointed by the Committee, licensed under the Public Accounting Act, 2004, to conduct a Compliance Audit of a Candidate's election campaign finances pursuant to Section 88.33(10) and 88.33(11) of the Act.
- 2.4. **Auditor's Report** – report of the Auditor regarding the findings of an audit into the election campaign finances of a Candidate or Registered Third Party Advertiser.
- 2.5. **Candidate** – a person who submitted a nomination to run for elected office in accordance with the Act.
- 2.6. **Chair** – The Joint Municipal Election Compliance Audit Committee Chair selected according to these rules of procedure and serves as the presiding officer for Committee meetings.
- 2.7. **Clerk's Report of Over Contribution** – A report, prepared by the Municipal Clerk, under Section 88.34 or 88.36 of the Act.
- 2.8. **Committee** – The Joint Municipal Election Compliance Audit Committee
- 2.9. **Compliance Audit** – an audit of a Candidate or Third Party Advertiser's election campaign finances conducted by an Auditor appointed by the Committee.
- 2.10. **Contributor** – an individual, corporation or trade union that gives money, goods or services to a Candidate/Registered Third Party under Section 88.8 and 88.15 of the Act.
- 2.11. **Council** – The Council of the Participating Municipalities.
- 2.12. **Meeting** – Meeting of the Committee held under the Act.

- 2.13. **Member** – individual who has been duly appointed to serve on the Joint Municipal Election Compliance Audit Committee in accordance to the Terms of Reference.
- 2.14. **Minutes** – the record, without note or comment, of the Committee’s resolutions and decisions.
- 2.15. **Registered Third Party** – an individual, corporation or trade union that is registered with a local municipality under Section 88.6 of the Act whose election campaign finances are the subject of an application for a compliance audit.
- 2.16. **Report** – the Report prepared by the Clerk in accordance with Section 88.34 of the Act which identifies whether a Contributor appears to have contravened any of the contribution limits under the Act
- 2.17. **Secretary** – The Municipal Clerk, or designate of each of the relevant Participating Municipality.
- 2.18. **Witness** – is an individual or organization requested by an Applicant, Contributor, Candidate, or Third Party Advertiser to speak and/or present evidence at a Meeting

3. Observance of the Rules of Procedure

The rules in these procedures shall be observed in all meetings of the Committee.

- 3.1. If these procedures do not provide for a matter of procedure that arises during a Meeting, the practice shall be determined by the Chair in consultation with the Secretary, taking into account Robert’s Rules of Order and all applicable legislation. The Chair may do whatever is necessary and permitted by law to enable the Committee to effectively and completely deal with the matter before it.
- 3.2. The Committee may waive any rule of procedure that it considers appropriate by a two-thirds majority vote of Members, apart from any procedures mandated by the Act or any other provincial legislation.
- 3.3. A Member may call attention to a violation of these procedures by stating a point of order to the Chair, and the Chair shall then decide upon the point of order and advise the Members of their decision with respect to the established procedure. A Member may immediately appeal the Chair’s decision to the Committee. The Committee shall hear the reason for the appeal from the appellant and the reason for the decision from the Chair and shall decide the question without debate. The decision of the Committee based on a majority vote is final.

4. Committee Composition

- 4.1. In accordance with the Joint Election Municipal Compliance Audit Committee Terms of Reference, a minimum of three (3) Members to a maximum of five (5) members will serve on the Committee.
- 4.2. In the event of a Member resigns or ceases to be a Member of the Committee, prior to the expiry of the Committee term, advertisement for a replacement Member will not commence until there are only three Members remaining on the Committee.

5. Legal Counsel

- 5.1. Where the Clerk or Committee determines that the Committee requires legal assistance in respect of a specific Application or Report, or for other matters such as the Committee’s role, interpretation of legislation, procedure, or other matters of a general nature pertinent to the Committee’s business, the Clerk, in consultation with the Participating Municipality’s solicitor, shall retain legal counsel to provide advice that may be subject to solicitor client privilege to the Committee. All costs related to legal assistance will be assumed by the Participating Municipality.

6. Meetings

- 6.1. The Committee shall meet at the request of the Secretary, having given reasonable notice.

- 6.2. The Secretary shall summon a meeting of the Committee if requested to do so in writing by a majority of the Committee members.
- 6.3. Meetings of the Committee shall be held at Municipal Offices or such other location, as the Secretary deems appropriate. Meetings may be held electronically, subject to the discretion of the Clerk and where permitted by the general meeting procedures and practices regarding electronic meetings established by the relevant Participating Municipality.
- 6.4. Committee meetings shall commence at a time and date to be set by the Secretary, and shall be adjourned on a vote of the Committee.
- 6.5. Attendance of a minimum of three (3) Committee members constitutes a quorum at meetings of the Committee.
- 6.6. Meetings of the Committee shall be open to the public, but Committee deliberations may be in private in accordance with the Municipal Elections Act (Section 88.33(5.1)).
- 6.7. The applicant, the Candidate and, where applicable, the Auditor shall be given an opportunity to address the Committee.
- 6.8. Addresses to the Committee shall be no more than five minutes in length.
- 6.9. Where the Committee desires to deliberate in closed session, they shall do so only by resolution.
- 6.10. Minutes of a closed session of the Committee shall be recorded by the Secretary.
- 6.11. Upon rising closed session, the Chair shall report on any resolutions passed in closed session, without disclosing the specific details of the closed session deliberations.

7. Duties of the Chair and Members

Chair

- 7.1. At the first meeting of the Committee, the Secretary shall call the meeting to order and the first order of business shall be the selection of the Chair. The Committee shall select a Chair from among its membership.
- 7.2. If the Chair of the Committee resigns as a member of the Committee or resigns as the Chair of the Committee, the Committee shall appoint another member as Chair for the balance of the term of Council.
- 7.3. The Chair is the liaison between the members and the Secretary of the Committee on matters of procedure and process.
- 7.4. The Chair shall enforce the observance of order and decorum among the Committee members and the public at all meetings.

All Members, including the Chair shall:

- 7.5. Attend all Committee Meetings, and shall advise the Clerk as soon as possible if they are unable to attend a Committee Meeting;
- 7.6. Understand their role, the Committee's mandate, and meeting procedures;
- 7.7. Declare if they cannot uphold the principles outlined in the Terms of Reference and be recused from participating in the applicable Committee proceedings;
- 7.8. Participate as an active and voting Member, asking questions and seeking clarification through the Chair; and
- 7.9. Develop and maintain a climate of mutual support, trust, courtesy and respect, working together to utilize the talent and knowledge of all Members.

8. Delegation by Secretary

- 8.1. The Secretary of the Committee may delegate administrative responsibilities to a designate.

9. Agenda

- 9.1. Before each meeting, the Secretary shall provide an agenda to each Member of the Committee.
- 9.2. The agenda shall include a copy of any reports by the Clerk regarding over contributions to a Candidate/Registered Third Party, and/or any written submissions/applications made by the applicant or the Candidate/Registered Third Party.
- 9.3. The first matter of business on each agenda shall be the declaration of any conflict of interest.
- 9.4. A copy of the agenda shall also be published on the Municipality's website.

10. Quorum

- 10.1. If no quorum is present thirty 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 thirty consecutive minutes, the Secretary shall record the names of the members present and the meeting shall stand adjourned until the next regular meeting day scheduled by the Secretary.

11. Committee Procedures

The Order of Business will be as follows:

- 11.1. Order of Business for the Agenda will be as follows:
 - Meeting Called to Order
 - Disclosure of Pecuniary Interest
 - Adoption of Minutes
 - Matters of Business
 - Opening Statement
 - Delegation – Applicant (In the case of a review of an over contribution, under Section 88.34 or 88.36 of the Act, this would list read “Report from Clerk of Over Contribution to Candidate X” or “Report from Clerk of Over Contribution to Registered Third Party”)
 - Delegation – Candidate/Registered Third Party, Agent, Witness
 - Committee Deliberation
 - Adjournment
- 11.2. At the first meeting of the Committee on a particular Report or Application, the Secretary shall call for nominations for the position of Chair for the Committee's deliberations on matters on the agenda. Members shall appoint one member to act as Chair for the duration of the Committee's deliberations on those matters on the agenda. The Chair shall retain the role for all matters on the agenda at a meeting. Another Member may assume the Chair in the event that the selected Chair is unable to fulfill their duties.
- 11.3. Where the agenda includes consideration of more than one Application, each Application will be dealt with by the Committee in its entirety before consideration of the next Application.
- 11.4. Notwithstanding the Order of Business noted above, the Secretary may publish an Agenda under which such section headings as noted above may be altered and listing all matters to be considered.

Questions to Delegations

- 11.5. The Committee may, through the Chair, ask questions of the Applicant, Candidate/Registered Third Party or any other delegation speaking to an Application.

Rules of Debate

- 11.6. Order of Speaking: When two or more Members wish to speak, the Chair shall designate the member who first requested to speak as the member who speaks first.
- 11.7. Questions: A Member may ask a question only:
 - 11.7.1. of a member who has already spoken on the matter under discussion;
 - 11.7.2. of the Chair;
 - 11.7.3. of an official of the Municipality; and
 - 11.7.4. of any other person addressing the Committee pursuant to these Rules of Procedure,
 - 11.7.5. for the purpose of obtaining information relating to the matter then under discussion.

Voting

- 11.8. Every Member present at a meeting of the Committee when a question is put shall vote on the question, unless prohibited by statute, in which case the fact of the prohibition shall be recorded in the minutes of the meeting.
- 11.9. The matter put to a vote shall be in the form of a motion addressing the matter then under consideration.
- 11.10. In the case of a tie vote, the motion or question shall be deemed to have been lost.

Motions

- 11.11. All motions must be introduced by a mover and seconder before the Chair may put the question or motion on the floor for consideration. If no member seconds the motion, the motion shall not be on the floor for consideration and therefore it shall not be recorded in the minutes.
- 11.12. Any Member may propose a motion on the matter then under consideration which the Secretary shall record in writing.
- 11.13. After a motion is properly moved and seconded, it shall be deemed to be in the possession of the Committee but may be withdrawn by the mover at any time before decision.
- 11.14. A motion to amend shall relate to the subject matter of the main motion, shall not be received posing a direct negative to the question, and shall be put to vote in reverse order in which the amendments are made.
- 11.15. Only a motion to amend an amendment to the original motion shall be allowed and any further amendments must be made to the original motion.

12. Notice

- 12.1. Public notice shall constitute posting the Agenda on the Municipal Website.
- 12.2. The Secretary shall give reasonable notice of a Committee meeting to the Committee by way of email, telephone or in writing by mail, as deemed appropriate.
- 12.3. Where an Application will be considered at a meeting, the Secretary shall give reasonable notice in writing, by mail, and/or by telephone to the applicant and Candidate/Registered Third Party of the time, place and purpose of a meeting and of the fact that if either 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. The written notice shall include the content of the Application. The Candidate/Registered Third Party may respond to the Application in writing. A written response shall be submitted to the Secretary a minimum of two days prior to the Committee meeting at which the Application will be considered.
- 12.4. The Secretary will forward notice of the Committee's decision, including brief written reasons, to the applicant, and the Candidate/Registered Third Party/Contributor at the mailing address provided to the Secretary as required by this procedure.

13. Committee Decisions under Municipal Elections Act

Applications

- 13.1. In accordance with Section 88.33(7) and Section 88.35(4) of the Act, within 30 days of receipt of the Application, the Committee will decide whether to grant or reject the Application.
- 13.2. 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/Registered Third Party's election campaign finances.
- 13.3. At the request of the Committee, the Secretary may assist the Committee in locating and contacting available Auditors to undertake the audit.
- 13.4. In accordance with Section 88.33(17) of the Act, within 30 days of receipt of an Auditor's report, if the report concludes that the Candidate appears to have contravened a provision of the Act relating to election campaign finances, the committee shall decide whether to commence a legal proceeding against the Candidate / Registered Third Party the apparent contravention of a provision of the Act relating to election campaign finances.
- 13.5. In accordance with Section 88.33(18) and 88.35 of the Act, the decision of the Committee following consideration of the Auditor's report, shall be made in writing, including brief written reasons for the decision, and forwarded, by the Secretary, to the Candidate, Registered Third Party and/or the Applicant.

Clerk's Reports

- 13.6. In accordance with Section 88.34(8) of the Act, within 30 days of receipt of the Clerk's Report of Over Contribution to a Candidate, the Committee will decide whether to commence a legal proceeding against a contributor for an apparent contravention.
- 13.7. In accordance with Section 88.36(5) of the Act, within 30 days of receipt of the Clerk's Report of Over Contribution to a Registered Third Party, the Committee will decide whether to commence a legal proceeding against a contributor for an apparent contravention.

14. Grant Exceptions from Procedures

- 14.1. The Committee may waive any rule of procedure in this procedure, in consultation with the Secretary, as it considers appropriate, to ensure that the real questions in issue are determined in a just manner.

15. Minutes

- 15.1. The Secretary shall prepare minutes of each meeting of the Committee and shall provide Members with a copy of the Minutes as soon as they are available.
- 15.2. The Members will review the minutes and provide any edits/changes as necessary. The Chair will sign the minutes to confirm that the minutes reflect the Committee's actions.