

CITY OF MISSISSAUGA

ELECTION CAMPAIGN FINANCES COMMITTEE PROCEDURE

BACKGROUND

In accordance with subsection 88.37 (1) of the *Municipal Elections Act, 1996* (the “Act”), Council for the City of Mississauga is required to establish a compliance audit committee (the “Committee”) on or before October 1 in the year of an election. The Committee shall be composed of not fewer than three and not more than seven members. The term of office for the Committee is the same as the term of office of Council.

In accordance with subsection 88.37(6) of the *Act*, the City Clerk is required to establish administrative practices and procedures for the committee (the “Procedures”) and shall carry out any other duties required under the *Act* to implement the committee’s decisions. The rules as set out in these Procedures shall be observed in all meetings of the Committee.

MANDATE

The Committee shall operate in accordance with the *Act*, the *Statutory Powers Procedure Act* and the City of Mississauga’s Council Procedure By-Law 139-13, which governs and regulates the operation of meetings of Council and committees. Members will review Applications and consider reports from the Clerk in accordance with sections 88.34 and 88.36 of the *Act*.

The Committee will commit to the following:

- A. Work independently from Council and provide an update to Council periodically on its activities via the distribution of notices of meeting, agendas and minutes.
- B. Uphold the integrity of the election process.
- C. All decisions and processes will be guided by these Procedures, the *Act*, the *Statutory Powers Procedure Act* and other applicable acts and regulations.
- D. Meetings and discussion will be treated in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).
- E. The process of reviewing Applications will be conducted in a non-biased, ethical and professional manner.
- F. The Committee will be supported by City of Mississauga staff, which support includes the issuance of press releases by the City’s Communications division.

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1. DEFINITIONS.

For the purposes of these Procedures:

“**Act**” means the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched.

“**Applicant**” means an elector, that is entitled to vote in accordance with the *Act*;

“**Application**” means an application for a compliance audit made in accordance with subsection 88.33(2) of the *Act* with respect to a Candidate or subsection 88.35(2) of the *Act* with respect to a Registered Third Party;

“**Auditor**” means a person appointed by the Committee to conduct a compliance audit of a Candidate’s or Registered Third Party’s election campaign finances;

“**Candidate**” means a person who has been nominated under section 33 of the *Act*;

“**Chair**” means the Member selected by the Members of the Committee to preside over its meetings;

“**Clerk**” The Clerk of the City of Mississauga or the Clerk’s designate.

“**Committee**” means the election campaign finances committee established by Council;

“**Council**” means the Council of the City of Mississauga;

“**Member**” means a person appointed to the Committee;

“**Procedures**” means the administrative practices and procedures of the Committee;

“**Registered Third Party**” means, in relation to an election in the City of Mississauga, an individual, corporation or trade union that is registered under 88.6 of the *Act*;

2. APPLICATION FOR A COMPLIANCE AUDIT

(1) **Application Requirements:** An Application for a compliance audit shall be made to the Clerk in writing either in person, by mail or electronically and shall include:

- (i) The Applicant’s full name, qualifying address, and for the purposes of communication with the applicant, their mailing address, phone number and email address;
- (ii) The reasons for the elector’s belief that a Candidate or Registered Third Party has contravened a provision of the *Act* relating to election campaign finances;

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(2) Application Deadline: An Application shall be made within 90 days after the latest of the following dates:

- (i) The filing date under section 88.30 of the *Act*.
- (ii) The date the Candidate or Registered Third Party filed a financial statement, if the statement was filed within 30 days after the applicable filing date under section 88.30.
- (iii) The supplementary filing date, if any, for the Candidate or Registered Third Party under section 88.30.
- (iv) The date on which the Candidate's extension, if any, under subsection 88.23 (6) expires or the date on which the Registered Third Party's extension, if any, under subsection 88.27 (3) expires.

(3) Application to Committee: Within 10 Days after receiving the Application, the Clerk shall forward the Application to the Committee

(4) Application Not Forwarded to Committee: Notwithstanding section 2(3), if the Clerk has determined that the requirements under section 2(1) of these Procedures are not met, the Clerk will consider the Application incomplete and will not forward the Application to the Committee. The Clerk will notify the Applicant their application is incomplete and will not be forwarded to the committee.

(5) Notice to Candidate or Registered Third Party: Upon forwarding an Application to the Committee in accordance with section 2(3) of these Procedures, the Clerk shall notify the Candidate or Registered Third Party.

(6) Personal Information: The personal information collected from an Application is collected under the authority of the *Municipal Act, 2001*, c. 25 and the *Municipal Elections Act, 1996*, c. 32 and will be used for the purposes of verifying the eligibility of the Applicant as an elector in the City of Mississauga and for the purpose of communicating to the Applicant regarding the status of the Application.

3. COMMITTEE DECISION ON APPLICATION

(1) Decision of Committee: Within 30 Days of receiving the Application from the Clerk in accordance with section 2 of these Procedures, the Committee shall decide whether the Application should be granted or rejected;

(2) Request for a Meeting: The Committee may request that the Clerk schedule a meeting of the Committee so long as it takes place within the 30 Day time period set out in 3(1) of these Procedures;

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(3) Automatic Rejection: In accordance with section 88.33 (3) of the Act, compliance audit requests will only be accepted if they are filed within 90 days after the latest of the following:

- a. **The primary Financial Statement Auditor's Report – Form 4/Form 8 filing deadline of March 29, 2019**
- b. **The supplementary Financial Statement Auditor's Report – Form 4/Form 8 filing deadline of September 27, 2019**
- c. **The date a Candidate filed their Financial Statement Auditor's Report – Form 4/Form 8) if the Candidate files 30 days after the primary or supplementary filing date if the Financial Statement Auditor's Report – Form 4/ Form 8 is accompanied with a \$500 late filing fee**
- d. **The filing deadline determined by the Court.**

Compliance audit applications filed outside of the above timelines will be automatically rejected by the Clerk's Office as they do not meet the Application deadlines specified in the Act.

(4) Content of Decision: The decision of the Committee to grant or reject an Application, and brief written reasons for the decision shall be given to the Candidate/Registered Third Party Advertiser, the Clerk and the Applicant. The Committee shall write its decision and its reasons for the decision and shall sign the decision and submit it to the Clerk.

4. GRANTING APPLICATION

(1) Granting an Application: The Committee may grant an Application if there are reasonable grounds for concluding that the Candidate/Registered Third Party has contravened the *Act* related to election campaign finances.

(2) Auditing of Candidate/Registered Third Party: If the Committee decides to grant the Application, the Clerk shall contact the Auditor in writing to conduct a compliance audit of the Candidate's or Registered Third Party's election campaign finances to determine whether or not it appears that he/she/it has complied with the provisions of the *Act* relating to election campaign finances.

(3) Auditor Powers: For the purposes of an audit, the Auditor is entitled to have access, at all reasonable hours, to all relevant books, papers, documents or things of the Candidate or Registered Third Party and of the City of Mississauga.

(4) Auditor Report: Once the report is complete, the Auditor shall submit the report to the Candidate or Registered Third Party, the Clerk and the Applicant.

(5) Auditor Report to Committee: Within 10 Days after receiving the report, the Clerk shall forward the report to the Committee.

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5. REVIEW OF AUDITOR REPORT BY COMMITTEE

- (1) **Auditor Report – Review by Committee:** The Committee shall review the Auditor's report within thirty (30) days of receiving it from the Clerk in accordance with these Procedures.
- (2) **Mandatory Meeting:** The Clerk shall schedule a meeting for the Committee to consider an Auditor report.
- (3) **Contravention of the Act not Found:** If the Auditor's report concludes that it appears that the *Act* was not contravened, the Committee shall not commence a legal proceeding against the Candidate or Registered Third Party. No further action will be taken by the committee.
- (4) **Contravention of the Act Found:** If the Auditor's report concludes that it appears that the *Act* was contravened, the Committee shall decide whether to commence a legal proceeding against the Candidate or Registered Third Party for the apparent contravention.
- (5) **Decision of Committee:** The decision of the Committee under section 5 of these Procedures, and brief written reasons for the decision, shall be given to the Candidate/Third Party Advertiser, the Clerk and the Applicant. The Committee shall write its decision and its reasons for the decision and shall sign the decision and submit it to the Clerk. A copy of the written Notice of Decision shall be circulated with the record of proceeding.
- (6) **Contact City Solicitor:** If the Committee decides to commence legal proceedings in accordance with this section 5 of these Procedures, the Clerk shall contact the City Solicitor to determine appropriate next steps.

6. REVIEW OF CLERK'S REPORT BY COMMITTEE

- (1) **Clerk Report:** The Clerk shall prepare a report identifying each contributor to a Candidate or Registered Third Party who appears to have contravened any of the contribution limits under 88.9 and 88.12 of the *Act* in accordance with the timeframe set out in the *Act* and forward the report to the Committee.
- (2) **Mandatory Meeting:** The Clerk shall schedule a meeting for the Committee to consider the Clerk's report.
- (3) **Review of Clerk Report by Committee:** Within 30 days after receiving the report from the Clerk, the Committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.
- (4) **Decision of Committee:** The decision of the Committee under this section of these Procedures, and brief written reasons for the decision, shall be given to the contributor(s) and Clerk. The Committee shall write its decision and its reasons for the decision and shall sign the decision and submit it to the Clerk. A copy of the written

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Notice of Decision and the record of proceeding shall be given to the contributor and to the City Clerk.

- (5) **Contact City Solicitor:** If the Committee decides to commence legal proceedings in accordance with this section of the Procedures, the Clerk shall contact the City Solicitor to determine appropriate next steps.

7. MEETINGS

- (1) **Meetings to be Scheduled By the Clerk:** The Clerk shall schedule a meeting of the Committee:

- (i) To review a compliance audit request;
- (ii) To review an Auditor report or Clerk's report;
- (iii) Upon the request of the majority of the members of the Committee; or
- (iv) As required under the *Act*; or
- (v) Whenever the Clerk considers it necessary

- (2) **Open to the Public:** A meeting of the Committee shall be open to the public.

- (3) **Deliberate in Private:** Notwithstanding section 7(2) of these Procedures, the Committee may deliberate in private. A decision to deliberate in private must be made by the majority of Members present at the meeting.

- (4) **Notice of Meetings:** Notice of a meeting shall be posted on the City of Mississauga's website and shall also be given to the Candidate/Registered Third Party Applicant or any other party who is the subject of the meeting. A notice of meeting shall include the date, time, place of the meeting and the particulars of an Application eight (8) business days prior to the meeting. Reasonable notice of meetings of the committee under this section shall be given to the candidate, the applicant and the public.

- (5) **Request for Alternative Meeting Date:** The Clerk may consider a request for an alternative date for a scheduled meeting so long as an alternative date can be found to accommodate all parties and is in compliance with the *Act*.

- (6) **Location:** Meetings of the Committee shall be held in the City of Mississauga Civic Centre or such other location, as the Clerk deems appropriate.

- (7) **Meeting Agenda:** Before each meeting the Clerk shall provide an agenda no less than three (3) business days prior to the meeting to each member of the Committee, the Clerk, the Applicant and the Candidate/Registered Third Party or contributor via email or registered mail as appropriate. The agenda shall be posted on the City of Mississauga's website.

- (8) **Content of Agenda:** If the agenda includes an Application/Clerk's report, the agenda shall include a copy of the Application/Clerk's report and a copy of the Candidate's or Registered Third Party's financial statement and supplementary financial statement as the case may be.

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8. QUORUM AND VOTING

- (1) **Quorum:** A majority of Committee members constitutes quorum at meetings of the Committee;
- (2) **No Quorum:** In accordance with the City of Mississauga's Procedure by-law, if no quorum exists thirty (30) minutes after the fixed time 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 (30) consecutive minutes, the Clerk shall record the names of the members present and the meeting shall stand adjourned until the next meeting day set by the Clerk. If the next meeting date is outside of the thirty (30) days legislated in the *Act*, an alternate meeting date shall be determined by the Clerk.
- (3) **Voting:** Members may vote on all questions submitted at the meeting. In the case of a tie vote, the question shall be deemed to have been lost.

9. COMMITTEE CHAIR

- (1) **Chair Appointment:** At its inaugural meeting, following the appointment of Committee members, the Committee shall elect one of its members as Chair and one of its members as a Vice-Chair for the term of Council that appointed the members and/ or until a successor is appointed. When the Chair of the Committee is absent, or is otherwise unable to act, the Vice-Chair shall perform the duties of the Chair and, while presiding, shall have all the powers of the Chair. If the "Vice-Chair is unable to act, the Committee members may appoint an Acting Chair. While presiding, the Acting Chair shall have all the powers of the Chair.
- (2) **Chair Resignation:** If the Chair resigns as a member of the Committee or resigns as Chair, the Committee shall elect another member as Chair for the balance of the term of Council and/or until a successor is appointed.
- (3) **Role of Chair:** The Chair is the liaison between the members and the Clerk on matters of policy and process. The Chair shall enforce the observance of order and decorum among the Members and the public at all meetings.

10. MEETING PROCEDURES

- 1) **General:** The provisions of section 239 of the *Municipal Act, 2001* shall apply to meetings of the Committee.
- 2) **Inaugural Meeting:** The Committee shall hold its inaugural meeting at a time and date to be determined by the Clerk following the appointment of the Members for the current term.

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- 3) **Opening Remarks:** The Chair shall call the meeting to order and read an opening statement outlining the procedures and format of the meeting along with items to be considered according to the agenda;
- 4) **Pecuniary Interest:** Where a Member has any pecuniary interest, direct or indirect, in any proceeding that is before the Committee, the Member shall:
 - (i) prior to any consideration of the meeting, disclose the interest and the general nature thereof;
 - (ii) recuse him or herself from the meeting;
 - (iii) not attempt in any way whether before, during or after the meeting to influence the decision of the meeting
- 5) **Introductions:** When an Application/Clerk's report is on the agenda, the Chair shall request that the Applicant and Candidate/Registered Third Party or contributor, if present, identify themselves and provide their names and mailing addresses to the Clerk.
- 6) **Order of Presentation:** Where an Application is on the agenda, the order of presentation for the item will go as follows:
 - (i) the Applicant may address the Committee;
 - (ii) the Candidate or Registered Third Party may address the Committee;
 - (iii) if a Clerk's report is on the agenda, the contributor may address the Committee;
 - (iv) any Registered Speaker may address the Committee;
 - (v) the Committee may ask questions to the Applicant, Candidate/Registered Third Party, contributor or Registered Speaker; after each presenter
- 7) **Length of Address:** Addresses to the Committee from any party shall be no longer than fifteen (15) minutes in length. The Committee has the discretion to extend the fifteen (15) minute length upon request.
- 8) **Participation by Members:** When two (2) or more Members of the Committee wish to speak, the Chair shall designate the member who first requested to speak as the member who speaks first.
- 9) **Questions by Members:** A Member of the Committee may ask a question only for the purpose of obtaining information relating to the matter then under discussion.
- 10) **Attendance:** Applicants are not obligated to attend the meeting or address the Committee. In cases where the Applicant declines to attend the meeting and/or address the Committee, the Committee will rely solely on the written reasons for the application submitted by the Applicant.
- 11) **Minutes/Record of Proceeding:** The Clerk shall prepare minutes and/or a record of proceeding for all scheduled meetings of the Committee. The record of proceeding of a meeting shall include a notice of decision detailing the decision of the Committee, and will identify the motions made by the Committee and their outcomes and will be posted on the City's website.

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- 12) **Adjournment:** Meetings shall be adjourned by a vote of the Committee.
- 13) **Audio Recording:** Portions of the meeting held in public shall be video recorded and a copy of the video can be request through the Clerk for a small fee.

11. MOTIONS

- (1) **General:** During a scheduled meeting, the Committee will hear motions regarding any proceeding listed on the agenda including but not limited to motions:
 - (i) To change the order of business,
 - (ii) To give direction concerning the Committee's procedures
 - (iii) To adjourn an agenda item with respect to any business properly before the Committee; or
 - (iv) To add an item to an agenda.
 - (v) To issue the committees decision
- (2) **Procedure:** Motions can be brought forward by the Applicant, the Candidate/Registered Third Party, Registered Speaker, contributor or Member of the Committee.
- (3) **Voting by Members:** Every Member present at a meeting of the Committee 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 meeting. The matter put to a vote shall be in the form of a motion addressing the matter then under consideration.
- (4) **Recorded Motion:** All votes on a motion shall be recorded by the Clerk. If multiple motions are put forward, the motions shall be dealt with in the order they were made.

12. FILING DOCUMENTS

- (1) **Filing Requirements:** If any party wishes to file documents for distribution prior to a meeting for consideration by the Committee, they must provide no less than fifteen (15) copies of the document(s) to the Clerk's Office and must be done no less than two (2) business days prior to the meeting date.
- (2) **Distribution of Documents:** Any documents filed in compliance with this section will be distributed by the Clerk to the Members of the Committee, the Applicant and the Candidate/Registered Third Party.
- (3) **Failure to File Documents:** If a party fails to file a document pursuant to this section, the party may not refer to the document at a meeting without the consent of the Committee.

13. REGISTERED SPEAKERS.

- (1) **Registration with Clerk:** Those individuals, other than the Applicant and the Candidate/Registered Third Party who wish to speak to an item on the agenda at a meeting must register with the Clerk by 4:30 p.m. in writing or via email, no less than two (2) business days prior to the date of the meeting. In the event that an individual does not meet the deadline as outlined above, the individual may, at the meeting, request that the Committee grant them the opportunity to speak. Each speaker will be given no longer than five (5) minutes to address the Committee. The Committee may extend this time if they so wish.
- (2) **Registered Speakers on Behalf of the Applicant or Candidate/Registered Third Party:** The Candidate and Applicant may register individuals to speak on their behalf with the Clerk by 4:30 p.m. in writing or via email, no less than two (2) business days prior to the meeting. No more than three (3) individuals for the Candidate and three (3) individuals for the Applicant will be registered to speak. If any other individuals wish to address the Committee, they can make a request directly to the Committee at the time of the meeting. Each speaker will be given no longer than fifteen (15) minutes to address the Committee. The Committee may extend this time if they so wish.
- (3) **Contact Information:** Upon registering to address the Committee, a speaker must provide the Clerk with contact information including a mailing address, phone number and email address so that the individual can be contacted. This information will be used only to contact the individual with respect to the meeting they wish to speak at and to provide any relevant information regarding the meeting.

14. MISCELLANEOUS

- (1) **Applicability:** These Procedures apply to all matters before the Committee and are subject to the *Statutory Powers Procedure Act* and any other applicable legislation.
- (2) **Matters not Provided For:** If these procedures do not provide for a matter of procedure that arises during a meeting, the practice shall be determined by the Committee, and the Committee may do whatever is necessary and permitted by law to enable it to effectively and completely deal with the matter before it.
- (3) **Waiving of Procedures:** The Committee may waive any rule of procedure in this procedure document, as it considers appropriate to ensure that the real questions in issue are determined in a just manner but the Committee is bound by the requirements and timelines set out in the *Act*.

15. APPEAL

In accordance with section 88.33(9) of the *Act*, the decision of the Committee to grant or reject a compliance audit application may be appealed to the Superior Court of Justice within 15 days after the decision is made, and the court may make any decision the committee could have made.