

2023EA1.1

RULES OF PROCEDURE FOR THE 2022 -2026 COMPLIANCE AUDIT COMMITTEE

BACKGROUND

A. Subsection 88.37(1) of the Municipal Elections Act, 1996 requires municipal councils to establish a Compliance Audit Committee on or before October 1 in the year of an election. Toronto City Council established a Compliance Audit Committee at its meeting on June 15, 2022.

B. Subsection 88.37(6) of the Municipal Elections Act, 1996 requires the City Clerk to establish administrative practices and procedures for the Committee.

C. The Committee:

- (1) Considers reports from the City Clerk identifying contributors who appear to have contravened election contribution limits and decides whether legal proceedings should commence.
- (2) Considers whether an application for a compliance audit filed by an elector should be granted or rejected and:
 - i. Appoints an auditor, if the application is granted;
 - ii. Receives and considers the auditor's report and decides whether legal proceedings should commence.

2. Definitions

Applicant – An elector who makes an Application under sections 88.33(1) and 88.35(1) of the Municipal Elections Act.

Application – An Application accepted by the City Clerk under sections 88.33(2) and 88.35(2) of the Municipal Elections Act.

Auditor – An auditor appointed by the Compliance Audit Committee to conduct a Compliance Audit under Section 88.33(10) of the Municipal Elections Act

Auditor's Report – The report by the Auditor on a Compliance Audit conducted under Section 88.33(10) of the Municipal Elections Act

Candidate – A Candidate whose election campaign finances are the subject of an Application.

Chair – The Chair of the Compliance Audit Committee.

Clerk – The City Clerk of the City of Toronto or their designate.

Committee – The Compliance Audit Committee of the City of Toronto.

Compliance Audit – An audit of a Candidate or a Third Party Advertiser's election finances, as defined under the Municipal Elections Act.

Council – The Council of the City of Toronto.

Municipal Elections Act – The Municipal Elections Act, 1996.

Member – A member of the Compliance Audit Committee.

Presentation – An appearance before the Committee by an Applicant, a Candidate or a Third Party Advertiser, to speak to a matter before the Committee.

Third Party Advertiser – A Third Party Advertiser whose election campaign finances are the subject of an Application.

3. Application of the Rules of Procedure

3.1. The Rules of Procedure are observed in all meetings of the Committee.

3.2. If a matter is not provided for in the rules arises during a meeting, the Committee determines the rule and the Committee may do whatever is necessary and permitted by law, including in accordance with the Statutory Powers Procedure Act, to enable it to effectively and completely deal with the matter before it.

4. Meetings

4.1. The Clerk calls the meetings

A. The Committee meets at the call of the Clerk.

B. The Clerk calls a meeting of the Committee when the Clerk considers it necessary, when required by the Municipal Elections Act or when requested to do so in writing by a majority of the Committee members.

C. The Clerk determines the location, date and time of the meeting.

4.2. Notice of Meeting

A. The Clerk gives notice of all meetings, and of cancelled or rescheduled meetings.

B. Where an Application will be considered at a meeting, the Clerk gives reasonable notice to the Applicant, the Candidate and/or Third Party Advertiser that includes:

(1) the location, date and time of the meeting;

(2) the purpose of the meeting;

(3) 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 or subsequent meetings at which the Application is considered;

(4) the reasons given in the Application; and

(5) that, should the Candidate or Third Party Advertiser wish to respond to the Application, they may do so in writing to the Clerk.

C. Where an Auditor's Report will be considered at a meeting, the Clerk gives reasonable notice to the Applicant, the Candidate and/or Third Party Advertiser that includes:

(1) the location, date and time of the meeting;

(2) the purpose of the meeting;

(3) 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 or subsequent meetings at which the Auditor's Report is considered; and

(4) that, should the Candidate or the Third Party Advertiser wish to respond to the Auditor's Report, they may do so in writing to the Clerk.

3.3 Quorum necessary for a Committee meeting

A. A quorum of the Committee is a majority of the Committee members.

B. If a quorum is not present 60 minutes after the time appointed for a meeting of the Committee, the Clerk calls the roll and records the names of the members present and the meeting stands adjourned until the next scheduled meeting, or to a meeting at the call of the Clerk.

C. If a quorum is lost during a meeting for a period of 30 minutes, the Clerk calls the roll and records the names of the members present and the meeting stands

adjourned until the next scheduled meeting, or to a meeting at the call of the Clerk.

D. Members participating electronically in a meeting shall be counted in determining whether or not a quorum of members is present at any point in time.

3.4. Meetings open to the public

All meetings are open to the public subject to the exceptions set out in subsection 3.5.

3.5. Closed meetings

- A. All meetings begin and end in public.
- B. The Committee may close a meeting in accordance with section 190 of the City of Toronto Act, 2006.
- C. The Committee may close a meeting to deliberate in private.
- D. Before holding a closed meeting, the Committee passes a motion to hold a closed meeting and the motion states that the meeting is a closed meeting and the reasons the matter requires a closed meeting

3.6 Meetings held at the discretion of the Chair

Meetings of the Committee shall be held, at the discretion of the Chair and in accordance with the Municipal Elections Act, 1996 and Statutory Powers Procedure Act, either as in-person meetings or electronic meetings or as a combination of the two..

5. Chair of the Committee

5.1. City Council appoints the Chair of the Committee.

5.2. If the Chair is absent when the meeting starts, the Committee appoints another member as Acting Chair to preside and discharge the duties of the Chair during the meeting or until the arrival of the Chair.

5.3. If the Chair resigns as a member of the Committee or resigns as the Chair of the Committee, the Committee appoints another member as Chair for the balance of the term of Council and until a successor is appointed.

5.4. The Chair:

- A. presides at all meetings of the Committee and maintains the decorum of the meeting;

B. acts as the liaison between the members and the Clerk on matters of policy and process; and

C. is designated the head for the purposes of the Municipal Freedom of Information and Protection of Privacy Act.

6. The Committee makes decisions under the Municipal Elections Act

6.1. In accordance with section 88.33(7) of the Municipal Elections Act, within 30 days after receiving the Application, the Committee considers the Application and decides whether to grant or reject the Application.

6.2. In accordance with section 88.33(8) of the Municipal Elections Act, the Committee provides brief written reasons for its decision with respect to the Application to the Candidate or Third Party Advertiser, the Clerk and the Applicant.

6.3. In accordance with section 88.33(10) of the Municipal Elections Act, if the Committee grants the Application, it appoints an Auditor to conduct a Compliance Audit of the Candidate or Third Party Advertiser's election campaign finances.

6.4. In accordance with section 88.33(17) of the Municipal Elections Act, within 30 days after receiving an Auditor's Report submitted under section 88.33(14) of the Municipal Elections Act, the Committee considers the report.

6.5. In accordance with section 88.33(18) of the Municipal Elections Act, the Committee provides brief written reasons for its decision with respect to the Auditor's Report to the Candidate or Third Party Advertiser, the Clerk and the Applicant.

7. Compliance Audit Committee agenda

7.1. The Clerk places the following matters on the agenda:

A. Applications.

B. Auditor's Reports.

C. Materials submitted to the Clerk by the Candidate or Third Party Advertiser related to a matter on the agenda.

D. Business matters submitted by City Officials.

7.2. The Clerk prepares, publishes and distributes the agenda for meetings of the Committee, the order of which includes:

- A. a request for declarations of interest under the Municipal Conflict of Interest Act;
- B. confirmation of the minutes;
- C. agenda items.

7.3. The Clerk, five business days in advance of the meeting, provides the agenda to each member by electronic or regular mail, and publishes the agenda online.

7.4. The Clerk provides any supplementary written materials submitted in relation to a matter on the agenda to the members as soon as reasonably possible, including during the meeting.

8. Information Public

8.1. Information, including completed forms, documents and statements disclosed to the Committee or submitted to the Clerk in relation to an Application or Auditor's Report, is an adjudicative record that is a public record available to parties, participants and the general public.

8.2. In accordance with section 27 of the Municipal Freedom of Information and Protection of Privacy Act, the provisions protecting individual privacy in Part 2 of the Act do not apply to any information collected in the Committee's prescribed forms and associated filings for appeals.

8.3. A request for relief from subsection 7.1 and 7.2 may be made in writing to the Clerk.

8.4. When the Clerk receives a request for relief, the Clerk places the matter on the agenda for the Committee to consider.

9. Motions

9.1. A member may make a motion that:

- A. affects the meeting procedures as set out in the Rules of Procedure; or
- B. proposes an action on the matter under consideration.

9.2. All motions are recorded by the Clerk.

9.3. The following procedural motions are not debatable and are considered in the

following order:

- A. to change the order of business;
- B. to adjourn the meeting; and
- C. to end the debate and take the vote immediately.

10. Voting

10.1. Every member present at a meeting must vote on every matter put to a vote, except a member who declares an interest and absents themselves from the vote.

10.2. The Clerk records as voting in the negative any member present at a meeting who does not or refuses to vote.

10.3. A motion passes when a majority of members present vote in favour of it.

10.4. A motion does not pass if the same number of members vote in favour and opposed.

11. Committee procedures for agenda items

11.1. Opening statement.

Where the agenda includes consideration of an Application and/or an Auditor's Report, the Chair reads an opening statement outlining how the Committee meeting will proceed.

11.2. Preliminary motions

Following the opening statement and before considering the substance of agenda items, the Committee members may make preliminary motions, including motions to change the order of business or to defer an agenda item, with respect to any business on the Committee's agenda.

11.3. Introduction of agenda item

The Chair announces the agenda item to be considered.

11.4. Identification of Applicant, Candidate and Third Party Advertiser

- A. Prior to consideration of an Application and/or the Auditor's Report, the Chair requests the Applicant, the Candidate and/or the Third Party Advertiser, if present, to identify themselves and to provide their name, mailing and email

addresses to the Clerk.

B. An Applicant, a Candidate and/or a Third Party Advertiser, or their agent, will be given sufficient time to address the Application or Auditor's Report.

C. Preliminary requests.

- (1) Where an appeal is proceeding by electronic means in whole or in part, and all parties have confirmed registration with the Secretary, the Committee shall hear from a party who wishes to make:
 - (a) a request for an adjournment of the hearing
 - (b) a petition for an in-person hearing; or,
 - (c) both
- (2) If the Committee determines, either as a result of submissions made in relation to a petition for an in-person hearing, or on its own motion, that a hearing proceeding by electronic means in whole or in part causes a party significant prejudice, the Committee shall direct that the hearing be held as an in-person hearing, and may adjourn the hearing to such date and time as the Panel believes appropriate.

11.5. Presentations

A. The Committee hears presentations in the following order:

- (1) the Auditor, where the Committee is considering an Auditor's Report;
- (2) the Applicant;
- (3) the Candidate or Third Party Advertiser.

B. A member may question a person making a presentation including an Applicant, Candidate or Third Party Advertiser.

11.6. Members questions

A member may ask questions of City officials or the Auditor for the purpose of obtaining information relating to the matter then under discussion.

11.7. Members may speak and move motions

Once the Committee has heard all presentations and asked questions, Committee

members may speak to the matter and move motions, including a motion to deliberate in private.

11.8. After debate, the Committee decides

After all members have spoken and the Committee has deliberated, the Chair puts the matter and any motions to a vote.

11.9. The Committee adjourns

After all business is considered, the Committee adjourns.

12. Minutes and Notice of Decision

12.1. The Clerk prepares the minutes of every meeting and submits them to the Committee for confirmation at the next meeting, or as soon as is reasonable.

12.2. The Clerk submits the minutes to the members by publishing them online.

12.3. The Committee members sign the minutes after the Committee adopts them.

12.4. The Clerk forwards notice of the Committee's decision to the Applicant and the Candidate or the Third Party Advertiser at the mailing or email address provided to the Clerk.

13. Waiver of rules

The Committee may waive any rule in these Rules of Procedure it considers appropriate to ensure that the matters before it are determined in a just manner.