

Bill No. 336
2022

By-law No. A.-_____ -____

A by-law to establish the 2022 Municipal Election Compliance Audit Committee in accordance with Section 88.37 of the *Municipal Elections Act, 1996*, as amended.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001*, as amended, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS section 88.37 of the *Municipal Elections Act, 1996*, as amended, requires council to establish a compliance audit committee;

AND WHEREAS this by-law and the Terms of Reference attached hereto as Schedule 1 comply with Section 270 of the *Municipal Act, 2001*, as amended, and Council Policy By-law A.-6151-17, with respect to the manner in which the municipality will try to ensure that it is accountable to the public for its actions and the manner in which the municipality will try to ensure that its actions are transparent to the public;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The attached Terms of Reference (Schedule 1) to establish the 2022 Municipal Election Compliance Audit Committee be adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on September 6, 2022.

Ed Holder
Mayor

Michael Schulthess
City Clerk

First Reading – September 6, 2022
Second Reading – September 6, 2022
Third Reading – September 6, 2022

Schedule 1

TERMS OF REFERENCE

2022 MUNICIPAL ELECTION COMPLIANCE AUDIT COMMITTEE

1.1 Name

The name of the Committee is the “2022 Municipal Election Compliance Audit Committee”.

1.2 Term of the Committee

The term of the Committee shall be from November 15, 2022 to November 14, 2026.

1.3 Meetings

The Committee will meet as needed, with meetings to be scheduled by the City Clerk or their designate when a compliance audit application is received.

1.4 Mandate

The Committee is required to act in accordance with the powers and obligations set out in the Municipal Elections Act, 1996, as amended (the “Act”). The Committee will be required to:

- consider a compliance audit application received from an elector that a candidate or a registered third party has contravened provisions of the Act relating to election campaign finances and determine whether it should be granted or rejected;
- if the application is granted, the committee shall appoint an auditor to conduct a compliance audit;
- receive the auditor’s report;
- consider the auditor’s report and if the report concludes that the candidate or registered third party appear to have contravened a provision of the Act relating to election campaign finances, the committee may commence legal proceedings against the candidate or third party for the apparent contravention; and,
- consider the report(s) of the City Clerk identifying each contributor to a candidate for office on a council or a registered third party who appears to have contravened any of the contribution limits under section 88.9 or 88.13 of the Act and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

1.5 Composition

The Committee will be composed of four (3) 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 Act.

Members of Council, employees or officers of the municipality or local board, any persons who are registered third parties in the municipality in the election for which the committee is established or any persons who are candidates in the election for which the Committee is established are not eligible to be appointed to the Committee, pursuant to clause 88.37(2) of the Act.

Further, an individual shall be deemed ineligible to be a member of the Committee if they prepare the financial statements of any candidate or registered third party running for office on Municipal Council during the term for which the Committee has been established.

The following persons are ineligible for appointment:

- Employees or officers of any of the participating bodies,
- A member of council or of a local board of any of the participating bodies,
- Any persons who are candidates in an election of any of the participating bodies for which the Committee is established; or
- Any persons who are registered third parties in an election of any of the participating bodies for which the Committee is established.

Should an appointed Committee Member accept employment with any of the participating bodies or register as a candidate or a third party with any of the participating bodies, they will have been deemed to have resigned.

All Committee Members shall agree in writing that they will not work or volunteer for, or contribute to, any candidate or registered third party in any capacity in an election of any of the participating bodies.

If a person recommended or appointed to serve on the Committee is identified as having participated or contributed to a candidate's campaign or registered third party, that person shall not be eligible to be a Member with respect to a Compliance Audit Committee application within the applicable participating body where the participation or contribution to a campaign or registered third party occurred.

1.6 Conflicts

Conflicts of pecuniary interest arise when Members may financially benefit, directly or indirectly, from their membership on the Committee. Such involvements include, but are not limited to:

- Members being employed by or doing business with the Affected Party
- Members' immediate family being the Affected Party or employed by or doing business with the Affected Party
- Members' business associates being the Affected Party or employed by or doing business with the Affected Party

A conflict of interest may be an actual or perceived conflict of pecuniary interest. The same duty to disclose applies to each. The pecuniary interests of a Member's immediate family or business associate are considered to also be the pecuniary.

1.7 Appointment Process

All applicants will be required to submit a summary outlining their qualifications and experience. A Nomination Committee consisting of the City Clerk, the Deputy City Clerk and the Manager of Elections, Strategic Integration and Policy will submit a short list of candidates to Council through the Corporate Services Committee. Any vacancies which arise after November 15, 2022 shall be nominated by the Nomination Committee to Council, through the Corporate Services Committee.

Members will be selected based on the following:

- a) demonstrated knowledge and understanding of municipal election campaign financing rules and knowledge of the Act and related regulations;
- 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; and
- e) oral and written communication skills

Members will be appointed by Municipal Council.

1.8 Compensation

Members shall receive an honorarium of \$200.00 per meeting, to be funded from the Election Reserve. Administrative costs for such items as printing and mailing will be absorbed within the City Clerk's Operating Budget.

1.9 Conduct of Members

Members of the Committee shall comply and conduct themselves in accordance with the Municipal Election Compliance Audit Committee Rules of Procedure. Members shall not use their position on the Committee for any personal or political gain.

1.10 Administrative Practices and Procedures

The Terms of Reference and Municipal Election Compliance Audit Committee Rules of Procedure shall 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 88.33 to 88.37 of the Act.

The City Clerk has the right to establish additional administrative practices and procedures for the Committee at any time and shall carry out any other duties required under the Act to implement the Committee's decisions.

1.11 Funding

Costs related to the retention of an auditor will be funded from the Election Reserve.

Costs incurred as a result of a decision of the Committee being challenged to the Superior Court of Justice shall be funded from the Election Reserve.