

The Corporation of the Township of Springwater

By-Law 2014-032

A By-law to Establish a Joint Compliance Audit Committee for the Term of Council 2014-2018 and Appoint Committee Members as Required under the Municipal Elections Act, 1996, as amended

Whereas Section 81.1 of the *Municipal Elections Act*, 1996, as amended, provides that a Council or Local Board shall, before October 1st of an election year, establish a Committee, herein referred to as the Compliance Audit Committee, for the purposes of Section 81 of the Act; and

Whereas the Compliance Audit Committee shall be composed of not fewer than three and not more than seven members and shall not include: employees or officers of the municipality or local board; members of the council or local board; or any persons who are candidates in the election for which the Compliance Audit Committee is established; and

Whereas the term of office of the Compliance Audit Committee is the same as the term of office of the Council or local board that takes office following the next regular election; and

Whereas the Councils of the Corporations of the Township of Oro-Medonte and The Township of Springwater have agreed to establish a Joint Compliance Audit Committee in compliance with Section 81.1 of the Act; and

Whereas the Council of The Corporation of the Township of Oro-Medonte passed Motion No C140514-13 at its May 14, 2014 Council meeting to appoint Robert Barlow and George Wodoslawsky as the Township of Oro-Medonte's Committee representatives; and

Whereas the Council of The Corporation of The Township of Springwater passed Motion C 158 2014, at its May 20, 2014 meeting to appoint Colin McLarty as the Township of Springwater's Committee representative;

NOW THEREFORE the Council of the Township of Springwater hereby enacts as follows:

1. That a Compliance Audit Committee (2014-2018) made up of members from the Township of Oro-Medonte and the Township of Springwater is hereby established, and as guided by such Terms provided for under Schedule 1.
2. That the members appointed to the Compliance Audit Committee shall be those members indicated on Schedule "A" attached hereto and forming part of this by-law.

3. That the Terms of Reference for the Compliance Audit Committee shall be Schedule "B" attached hereto and forming part of this by-law.

4. And that this By-law shall come into force and effect on the date of passing thereof.

By-Law Read a First, Second and Third Time, and Passed this 28 Day of July, 2014.

The Corporation of the Township of Springwater


Linda Collins, Mayor


John Daly, Clerk

Schedule "A"
Compliance Audit Committee Appointed Members

Township of Oro-Medonte	Robert Barlow George Wodoslawsky
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Township of Springwater	Colin McLarty
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Schedule "B"

Compliance Audit Committee Terms of Reference

1. Background

Pursuant to Section 81.1(1) of the *Municipal Elections Act, 1996, as amended*, the Townships of Oro-Medonte and Springwater established a Compliance Audit Committee by way of appointment from the respective Councils.

In accordance with Section 81.1(4) of the *Municipal Elections Act, 1996*, the following has been established to enable the Compliance Audit Committee to fulfill its duties in a fair, open and responsible manner.

2. Name

The name of the Committee is "Compliance Audit Committee" ("Committee") consisting of the following municipalities:

- Township of Oro-Medonte;
- Township of Springwater.

3. Duration

The term of office for the Committee is from December 1, 2014 to November 30, 2018 (same as the term of office of Council).

4. Mandate

The powers and functions of the Committee are set out in Sections 81 and 81.1 of the *Municipal Elections Act, 1996, as amended* (Appendix "1"). The Committee will perform the functions relating to the compliance audit application process as outlined in the Act. These functions include, but not limited to:

- a) within 30 days receipt of a compliance audit application by an elector, consider the application and decide whether it should be granted or rejected;
- b) appoint a licensed auditor, if the application is granted;
- c) receive the auditor's report;
- d) within 30 days receipt of the auditor's report, consider the report;

- e) if the report concludes that the candidate appears to have contravened a provision of the Act relating to election campaign finances, commence legal proceedings against the candidate for the apparent contravention;
- f) if the report concludes that the candidate does not appear to have contravened a provision of the Act relating to election campaign finances and the Committee finds that there were no reasonable grounds for the application, Council may recover the auditors costs from the applicant.

5. Membership

The Committee will be composed of three (3) members.

The following are excluded from being members of the Committee:

- Candidates in the municipal election for which the Committee is established;
- Council or Local Board Members; and
- Municipal Employees and Officers.

Where a member ceases to be a member before the expiration of his or her term, Council may appoint another eligible person for the unexpired portion of the term. **6.**

Chair

The Committee will select a Chair from amongst its members at its first meeting when a compliance audit application is received.

The Chair is the liaison between the members and the Secretary of the Committee on matters of policy and process.

The Chair shall enforce the observance of order and decorum among the Committee members and the public at all meetings.

When the Chair is absent, the Committee may appoint another member as Acting Chair. While presiding, the Acting chair shall have all the powers of the Chair.

7. Meetings

Meetings of the Committee will be conducted in accordance with the open meeting requirements of the provisions of the *Municipal Act*, 2001, subject to any need to meet in closed session for a purpose authorized by Section 239 of the *Municipal Act*, 2001 and the provisions of the Townships' respective Procedural By-Laws.

The date and time of meetings will be communicated by the Clerk to the Committee members. Subsequent meetings will be held at the call of the Chair in consultation with the Clerk.

Committee activity shall be determined primarily by the number and complexity of applications for compliance audits that may be received. The frequency and duration of meetings will be determined by the Committee in consultation with the Clerk.

The Committee shall meet at the location, determined by the Clerk, of the respective municipality requiring the services of the Committee.

The Order of Business for the Agenda may be as follows

- a) Call the Meeting to Order
- b) Disclose any Conflict(s) of Interest
- c) Matters of Business
 - Opening Statement
 - Delegation – Applicant, Agent
 - Delegation – Candidate, Agent, Witness
 - Report – Auditors (where applicable)
 - Committee Deliberation
- d) Adjournment

Both municipal websites will be utilized to communicate the meeting notices and agendas.

8. Quorum

Quorum for meetings shall consist of a majority of the members of the Committee.

If no quorum is present thirty (30) minutes after the time appointed for the meeting, the Clerk shall record the names of the members present and the meeting shall stand adjourned until the date of the next meeting.

9. Conflict of Interest

The principles of the *Municipal Conflict of Interest Act*, apply to this Committee.

To avoid any potential conflict of interest, committee members shall not offer their services to any municipal election candidates.

Members shall be cognizant of potential conflicts of interest and must perform its functions fairly and impartially.

Failure to adhere to these requirements will result in the individual being removed from the Committee.

10. Staffing and Remuneration

The Clerk from the respective municipality requiring the services of the Committee shall act as Secretary to the Committee.

The municipality requiring the services of the Committee shall be responsible for all associated costs.

Members of the Committee shall be paid an honorarium of \$80 per meeting, plus mileage at the current mileage rate established by the respective municipality.

The Clerk of the respective municipality may develop additional administrative practices and procedures, as may be required.

Appendix "1" to Compliance Audit Committee Terms of Reference

Compliance audit

Application

81. (1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

Requirements

(2) An application for a compliance audit shall be made to the clerk of the municipality or the secretary of the local board for which the candidate was nominated for office; and it shall be in writing and shall set out the reasons for the elector's belief. 2009, c. 33, Sched. 21, s. 8 (44).

Deadline

- (3) The application must be made within 90 days after the latest of,
- (a) the filing date under section 78;
 - (b) the candidate's supplementary filing date, if any, under section 78;
 - (c) the filing date for the final financial statement under section 79.1; or
 - (d) the date on which the candidate's extension, if any, under subsection 80 (4) expires. 2009, c. 33, Sched. 21, s. 8 (44).

Application to be forwarded to committee

(4) Within 10 days after receiving the application, the clerk of the municipality or the secretary of the local board, as the case may be, shall forward the application to the compliance audit committee established under section 81.1 and provide a copy of the application to the council or local board. 2009, c. 33, Sched. 21, s. 8 (44).

Decision

(5) Within 30 days after receiving the application, the committee shall consider the application and decide whether it should be granted or rejected. 2009, c. 33, Sched. 21, s. 8 (44).

Appeal

(6) The decision of the committee may be appealed to the Ontario Court of Justice within 15 days after the decision is made and the court may make any decision the committee could have made. 2009, c. 33, Sched. 21, s. 8 (44).

Appointment of auditor

(7) If the committee decides under subsection (5) to grant the application, it shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

Same

(8) Only auditors licensed under the *Public Accounting Act, 2004* or prescribed persons are eligible to be appointed under subsection (7). 2009, c. 33, Sched. 21, s. 8 (44).

Duty of auditor

(9) The auditor shall promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of

this Act relating to election campaign finances and shall prepare a report outlining any apparent contravention by the candidate. 2009, c. 33, Sched. 21, s. 8 (44).

Who receives report

- (10) The auditor shall submit the report to,
- (a) the candidate;
 - (b) the council or local board, as the case may be;
 - (c) the clerk with whom the candidate filed his or her nomination;
 - (d) the secretary of the local board, if applicable; and
 - (e) the applicant. 2009, c. 33, Sched. 21, s. 8 (44).

Report to be forwarded to committee

(11) Within 10 days after receiving the report, the clerk of the municipality or the secretary of the local board shall forward the report to the compliance audit committee. 2009, c. 33, Sched. 21, s. 8 (44).

Powers of auditor

- (12) For the purpose of the audit, the auditor,
- (a) is entitled to have access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality or local board; and
 - (b) has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the audit as if it were an inquiry under that Act. 2009, c. 33, Sched. 21, s. 8 (44).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is repealed and the following substituted:

- (b) has the powers set out in section 34 of the *Public Inquiries Act, 2009* and section 34 applies to the audit.

See: 2009, c. 33, Sched. 21, ss. 8 (45), 13 (2).

Costs

(13) The municipality or local board shall pay the auditor's costs of performing the audit. 2009, c. 33, Sched. 21, s. 8 (44).

Power of committee

- (14) The committee shall consider the report within 30 days after receiving it and may,
- (a) if the report concludes that the candidate appears to have contravened a provision of this Act relating to election campaign finances, commence a legal proceeding against the candidate for the apparent contravention;
 - (b) if the report concludes that the candidate does not appear to have contravened a provision of this Act relating to election campaign finances, make a finding as to whether there were reasonable grounds for the application. 2009, c. 33, Sched. 21, s. 8 (44).

Recovery of costs

(15) If the report indicates that there was no apparent contravention and the committee finds that there were no reasonable grounds for the application, the council or local board is entitled to recover the auditor's costs from the applicant. 2009, c. 33, Sched. 21, s. 8 (44).

Immunity

(16) No action or other proceeding for damages shall be instituted against an auditor appointed under subsection (7) for any act done in good faith in the execution or intended execution of the audit or for any alleged neglect or default in its execution in good faith. 2009, c. 33, Sched. 21, s. 8 (44).

Saving provision

(17) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).