



Corporate Services Committee Meeting Agenda

Monday, February 7, 2022, 9:30 a.m.

Electronic Meeting

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Pages

Public Meeting

Additional Agenda Items

(As may be presented at the meeting)

Declarations of Pecuniary Interest

(As may be presented by Committee Members)

Presentations

None

Delegations

None

Correspondence Requiring Action

None

Referrals from Council and Committees

None

Reports from Advisory Committees

None

Reports Requiring Action

CORP-22-09 - Noise Exemption Request and Notice Process (All Wards)

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Recommendation

That the Corporate Services Committee select an option detailed in Section 5.2 of Report CORP-22-09 dated February 2, 2022 concerning the noise exemption request and notice process.

Public Consent Agenda

Correspondence

None

Staff Reports/Motions

CORP-22-07 - Proposed Renaming of the Northview Branch of the Oshawa Public Library to honour John Aker (Ward 2)

Recommendation

That the Corporate Services Committee recommend to City Council:

Whereas on June 21, 2021, City Council provided the following referral “that staff investigate the feasibility of adding the name of ‘John Aker’ to the North Oshawa Public Library thus making the name the ‘John Aker North Oshawa Public Library’”; and,

Whereas the City of Oshawa’s Chief Administrative Officer contacted the Aker family to determine if they supported the renaming of the Northview Branch of the Oshawa Public Libraries in honour of Mr. Aker; and,

Whereas the Aker family confirmed their support of renaming the Northview Branch to recognize former Oshawa City and Regional Councillor John Aker’s over 30 years of service to the City of Oshawa and The Regional Municipality of Durham; and,

Whereas the Oshawa Public Library Board passed the following motion at its January 20, 2022 meeting: “That the Oshawa Public Library Board appreciates the opportunity to provide feedback regarding the proposed name change of the Northview Library and hereby authorizes the CEO to report back to the City’s Chief Administrative Officer regarding this matter. The Board recommends that consideration be given to engaging with the public in the form of a Library member survey conducted by Library staff with respect to the potential name change. The Board further recommends that going forward, and if possible, the Board be consulted in advance of any City Council recommendation that will affect the library for internal planning purposes.”; and,

Whereas City staff do not feel it is necessary to conduct a Library member survey given former Councillor Aker’s significant contributions to Oshawa and Durham Region as well as his strong support for the establishment of the Northview Library Branch and the significant support he has received from residents during his many years of public service; and,

Whereas the Oshawa Public Libraries CEO has estimated that the cost to change the name of the Library Branch would range from \$14,800 to \$21,800 for such items as signage, promotional materials, updating catalogue records, and staff time to update policies and procedures;

Therefore be it resolved:

1. That pursuant to CORP-22-07 dated February 7, 2022 that the Northview Branch of the Oshawa Public Libraries be renamed to the John Aker Branch of the Oshawa Public Libraries; and,
2. That funding up to \$22,000 be provided to the Oshawa Public Libraries for the purpose of changing the name of the Library Branch and that it be funded from the Corporate Expenditures Public Relations Account; and,
3. That the Oshawa Public Library Board be thanked for their input; and,
4. That the John Aker family be advised of Council's decision; and,
5. That City staff work with Library staff to communicate the name change to the public.

CORP-22-08 - 2022 Municipal Election Joint Compliance Audit Committee (All Wards)

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Recommendation

That the Corporate Services Committee recommend to City Council:

1. That the draft Terms of Reference for the 2022 Municipal Election Joint Compliance Audit Committee as set out in Attachment 1 of Report CORP-22-08 dated February 2, 2022 be endorsed; and,
2. That the City Clerk be authorized to bring forward a by-law for Council approval that would provide for the remuneration and appointment of a roster of individuals to the 2022 Municipal Election Joint Compliance Audit Committee in accordance with the Terms of Reference; and,
3. That, at such time as the above by-law is enacted by Council, that the 2022 Municipal Election Compliance Audit Committee be deemed to be established in accordance with the Municipal Elections Act.

Public Discussion Agenda

Matters Excluded from Consent Agenda

Items Introduced by Members

Closed Consent Agenda

Closed Correspondence

None

Closed Staff Reports/Motions

None

Closed Discussion Agenda

Matters Excluded from Consent Agenda

Items Requiring Action

None

Adjournment

To: Corporate Services Committee

From: Tracy Adams, Commissioner,
Corporate Services Department

Report Number: CORP-22-09

Date of Report: February 2, 2022

Date of Meeting: February 7, 2022

Subject: Noise Exemption Request and Notice Process

Ward: All Wards

File: 03-05

1.0 Purpose

On May 21, 2019, City Council (“Council”) provided the following referral (CNCL-19-44):

“That in future, when the City of Oshawa receives an application for extension of hours for noise generation that the City circulate a notice to area residents prior to the application being heard at Committee.”

The purpose of this report is to respond to the aforementioned Council referral and present options for a proposed noise exemption request and notice process for the Corporate Services Committee’s (“Committee”) consideration.

Attachment 1 is benchmarking of other municipalities’ noise by-laws and exemption processes.

Attachment 2 are example timelines to depict the time required for each option.

Attachment 3 is a correspondence received from Durham Region Home Builders’ Association dated January 20, 2022.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That the Corporate Services Committee select an option detailed in Section 5.2 of Report CORP-22-09 “Noise Exemption Request and Notice Process”, dated February 2, 2022.

3.0 Executive Summary

Not Applicable

4.0 Input From Other Sources

The following were consulted in the preparation of this report:

- Commissioner, Development Services
- City Clerk Services
- Legal Services
- Municipalities: Ajax, Brampton, Clarington, Guelph, London, Markham, Mississauga, Newmarket, Pickering, Richmond Hill, Toronto, Vaughan, Whitby
- The Building Industry Liaison Team (B.I.L.T.) including Durham Region Home Builders' Association (D.R.H.B.A.)

5.0 Analysis

5.1 Background

The City of Oshawa's ("City") [Noise By-law 112-82](#), as amended ("Noise By-law") regulates noises likely to disturb the inhabitants of the City. This is done through a general prohibition of noises from one's property at all times. Notwithstanding this general prohibition, certain noises are deemed to be necessary and are therefore exempted under Section 3 of the Noise By-law. This includes, but is not limited to:

- Construction noise between 7 a.m. and 7 p.m. Monday through Saturday, on any day that is not a Holiday;
- Construction noise on Sunday between 9 a.m. and 5 p.m.; and,
- Reasonable and necessary noise made by any person upon their own property that does not interfere with the enjoyment of any adjoining property owner and is not audible at a distance of twenty-five (25) feet from the limit of the property.

In April 2020, the Ontario government passed [O. Reg 131/20](#), which allowed essential construction projects, such as those related to the health care sector amid COVID-19, to be exempt from noise regulations twenty-four (24) hours a day. O. Reg 131/20 also exempted all other construction activity in a municipality between the hours of 6 a.m. and 10 p.m. This regulation was repealed on October 7, 2021.

The Municipal Act, 2001, S.O. 2001, c. 25 provides Council with the authority to provide exemptions to any and all provisions in the Noise By-law. Some municipalities have delegated noise exemption requests to staff as outlined in Attachment 1.

The City's standard template for both Site Plan Agreements and Subdivision Agreements contains an advisement regarding the Noise By-law and the obligations of the developer to adhere to it.

Council periodically receives requests from individuals for occurrences such as special events or construction projects that require work outside of the already exempted hours. Exemption requests are sometimes received for construction activities as night work may be required to reduce risks to construction workers, reduce traffic congestion and in order to meet project timelines. Exemption requests have also been received for non-construction projects, such as filming activities and special events (e.g. weddings).

This report presents three (3) options for noise exemption request and notice processes for Committee's consideration.

5.1.1 Public Authorities

Municipalities are created by and subject to Provincial legislation and do not possess the authority nor jurisdiction to regulate the emission of noise from higher level of governments (e.g. Regional, Provincial, and Federal). As such, Public Authorities are not required to apply for noise exemptions and do not go through Committee and Council for approval. The Region and Province provide notification about construction projects such as road work directly to the public through their websites, social media, and road signs. Additionally, information is posted on the City's website.

5.1.2 Current Noise By-law Exemption Process

Since 2018, the City has received eight (8) noise exemptions requests. Currently requests for exemption to the Noise By-law are received by City Clerk Services and include various details, including but not limited to:

- The location of the noise;
- The requested duration of the exemption;
- The potential hours of the event or construction project and reasoning;
- The nature of the work; and,
- Contact information of the project/event supervisor and on-site supervisor.

The request is then placed on the next Corporate Services Committee agenda for consideration and, if approved, the recommendation for an exemption proceeds to City Council for further deliberation. Following Council's consideration, City Clerk Services notifies the requestor of the status of their request as well as any conditions that Council may have added. Conditions typically include:

- A requirement to provide notice to the public of the exemption and associated activity. This may take the form of newspaper advertisements and/or the delivery of flyers/letters to nearby residents.
- A requirement to provide the public and the City with the contact information for an on-site supervisor who can address issues if they arise.

In 2018, the City's internal process was enhanced to also include public notice of the exemption including contact information on the City's website and social media accounts.

5.1.3 Exemption Request Processes for Other By-laws

A number of other City by-laws permit the Director, Municipal Law Enforcement and Licensing Services (M.L.E.L.S.) to manage exemption requests, including:

- Boulevard By-law 136-2006
- Business Licensing By-law 120-2005
- Fence and Sight Triangle By-law 23-2014
- Responsible Pet Owner By-law 14-2010

The exemption request fee for each of these by-laws is one hundred twenty-five dollars (\$125), as established in the General Fees and Charges By-law 13-2003.

The Director reviews exemption requests with a goal of ensuring the exemption generally maintains the purpose and intent of the by-law without having a negative effect on the neighbourhood and nearby residents. The process outlined in the Fence and Sight Triangle By-law 23-2014 includes the distribution of notices to the adjacent property owners for their feedback.

In addition, the Commissioner, Development Services has delegated authority to approve sign variance applications as well as requests related to encroachments on city property. The delegated authority for sign variance applications is subject to a restriction that controversial applications or applications proposed to be denied are to be considered by Council. The delegated authority for encroachments is subject to a restriction that the total consideration for the encroachment is less than \$75,000 per annum.

5.1.4 Municipal Benchmarking

Staff undertook a survey of thirteen (13) Southern Ontario municipalities' noise by-laws and exemption processes. Some of the key highlights include:

- Eleven (11) municipalities have formal noise exemption processes
- Eleven (11) municipalities delegate authority to staff to grant noise exemptions
- Nine (9) municipalities have fees associated with noise exemption requests
- Seven (7) municipalities have notice processes in place for applicants to notify properties surrounding the site of the noise exemption

Full benchmarking can be found in Attachment 1.

5.2 Proposed Noise Exemption Process Options

In an effort to streamline the process and enhance communication to the public, staff is presenting three (3) options for consideration. Attachment 2 are example timelines to depict the time required for each option.

Options "A" and "B" include these common elements:

- Introduce a two hundred fifty dollar (\$250) noise exemption application fee to recover costs associated with administering the process (mailing, tracking, website updates, etc.).
- Notifications containing details of exemption requests will be sent to property occupants within one hundred and twenty (120) metres of the noise location (as is consistent with notifications for rezoning) providing them the opportunity to submit feedback for consideration. For multi-unit properties (e.g. residential, commercial, etc.) under single ownership, the notification will be sent to property owners to post for their occupants.

5.2.1 Option “A” – Staff Administered

Consistent with the process for other City By-laws, the Director, M.L.E.L.S. will receive, review and approve or deny exemptions to the Noise By-law.

As this option is not tied to the Committee and Council process, this process can be completed in approximately twenty (20) to 30 (thirty) days.

Process

- Applicants will be required to submit an application and pay a two hundred fifty dollar (\$250) application fee.
- It is suggested that requests be submitted at least thirty (30) days in advance of the activity in order to allow sufficient time for staff to undertake public notice activities and to allow for public feedback to be received and reviewed by staff.
- City staff will send a letter to all property occupants within one hundred and twenty (120) metres of the site, via regular mail, advising of details of the request, and the process for residents to submit comments to City staff. For multi-unit properties (e.g. residential, commercial, etc.) under single ownership, the notification will be sent to property owners to post for their occupants.
- The noise exemption request application and any public feedback will be considered by the Director, M.L.E.L.S. The Director, M.L.E.L.S. would approve or deny the exemption.
- If the request is approved, staff will provide notice of the approved exemption on the City’s website, to the applicant, to Ward Councillors, the Mayor, and to those who submitted comments. If the request is not approved by the Director, staff will advise the applicant.

If Committee were to choose this option, the following motion should be passed:

1. That Council approve a by-law to amend Noise By-law 112-82, as amended, and General Fees and Charges By-law 13-2003, as amended as outlined in Option “A” of Section 5.2 of Report CORP-22-09 “Noise Exemption Request and Notice Process”, dated February 2, 2022, and in a form and content acceptable to Legal Services and the Commissioner of Corporate Services; and,

2. That the requirements of Notice By-law 147-2007 regarding notice to the public for amendments to the General Fees and Charges By-law 13-2003, as amended, be waived.

5.2.2 Option “B” – Council Administered

City Council will receive, review and approve or deny any exemptions to the Noise By-law.

Due to the Committee and Council schedule, it may take an estimated 35 (thirty-five) to 70 (seventy) days to complete this process depending on when the application is received.

Process

- Applicants will be required to submit an application and pay a two hundred fifty dollar (\$250) application fee.
- It is recommended that requests be submitted at least sixty (60) days in advance of the activity in order allow sufficient time for staff to undertake public notice activities and to allow for public feedback to be received and reviewed by Committee.
- City staff will send a letter to all property occupants within one hundred and twenty (120) metres of the site, via regular mail, advising of details of the request, the date of the Committee meeting when the request will be considered and methods of submitting feedback to City Clerk Services. For multi-unit properties (e.g. residential, commercial, etc.) under single ownership, the notification will be sent to property owners to post for their occupants.
- The noise exemption request application and any public feedback will appear on the next Committee Meeting agenda for consideration.
- Corporate Services Committee will recommend approval or denial to City Council.
- If the request is approved by Council, staff will provide notice of the approved exemption on the City’s website, to the applicant, and to those who provided feedback. If the request is not approved by Council, staff will advise the applicant.

If Committee were to choose this option, the following motion should be passed:

1. That Council approve a by-law to amend Noise By-law 112-82, as amended, and General Fees and Charges By-law 13-2003, as amended as outlined in Option “B” as detailed in Section 5.2 of Report CORP-22-09 “Noise Exemption Request and Notice Process”, dated February 2, 2022, and in a form and content acceptable to Legal Services and the Commissioner of Corporate Services; and,
2. That the requirements of Notice By-law 147-2007 regarding notice to the public for amendments to the General Fees and Charges By-law 13-2003, as amended, be waived.

5.2.3 Option “C” – Current Exemption Request Process

The current process would continue as outlined in Section 5.1.2.

Due to the Committee and Council schedule, it may take an estimated 21 (twenty-one) to 35 (thirty-five) days to complete this process depending on when the application is received.

If Committee were to choose this option, the following motion should be passed:

1. That Report CORP-22-09 “Noise Exemption Request and Notice Process”, dated February 2, 2022, be received as information.

5.2.4 Assessment of Options

Benefits and detractors associated with each proposed option have been outlined in Table 1 below.

Table 1 Benefits and Detractors of Proposed Process

	Benefits	Detractors
Option “A” – Staff Administered	<ul style="list-style-type: none">• Increased opportunity for public input prior to the request being considered• Costs associated with public notification are paid by the applicant• Allows noise exemptions to be processed in a more timely manner• Allows noise exemptions to be considered during Council recesses without the need for special meetings• Consistency with other City by-laws	<ul style="list-style-type: none">• The time required to seek public feedback may cause delays in the construction process (most construction companies are working under tight timelines and supply chain issues)• There is a risk of increased non-compliance due to timing and cost – some may proceed with work without requesting an exemption

	Benefits	Detractors
Option “B” – Council Administered	<ul style="list-style-type: none"> Increased opportunity for public input prior to the request being considered at Committee and Council Costs associated with public notification are paid by the applicant 	<ul style="list-style-type: none"> Council may not be able to meet the needs of time sensitive requests due to the Committee and Council schedule meeting schedule (e.g. unforeseen construction related activities, filming) Summer is a popular time for events and construction that require noise exemptions, leading to the need for special meetings during Council’s summer recess The time required to seek public feedback may cause delays in the construction process (most construction companies are working under tight timelines and supply chain issues) There is a risk of increased non-compliance due to timing and cost – some may proceed with work without requesting an exemption
Option “C” – Current Exemption Request Process	<ul style="list-style-type: none"> No cost to applicant Less staff time required to administer The public can provide input through the normal Committee and Council meeting processes Simplified process for applicants 	<ul style="list-style-type: none"> Summer is a popular time for events and construction that require noise exemptions, leading to the need for special meetings during Council’s summer recess There is less opportunity for public input prior to Committee and Council consideration

5.3 Conclusion: Stakeholder Feedback and Recommendation

Staff consulted B.I.L.T., and feedback was received from the D.R.H.B.A., who is a member of B.I.L.T. D.R.H.B.A. indicated they are supportive of the current process, Option “C”. The correspondence can be found in Attachment 3.

Staff recommend that Option “C” - Current Exemption Process be continued for the following reasons:

- The time required in Options “A” and “B” for public input before the exemption request is considered by staff or Council is lengthy and may be unrealistic for some applicants.
- The public is already notified of upcoming noise exemptions via Council agenda and minutes, as well as the City website.
- It is likely that those who are not opposed, and those who are indifferent, to the request will not take the time to submit feedback and the only feedback received will be from those who are opposed, resulting in an unbalanced perspective.
- The City receives very few noise exemption requests.

6.0 Financial Implications

Should Option “A” or “B” be selected, the cost of staff time and supplies required to prepare and mail notices to property occupants will be recovered by the application fee of two hundred fifty dollars (\$250).

Should Option “C” be selected, there would be no financial implications.

7.0 Relationship to the Oshawa Strategic Plan

The recommendation in this report respond to the following goals within the Oshawa Strategic Plan:

- 4.1 Economic Prosperity and Financial Stewardship: Responsible Taxation; and,
- 4.2 Accountable Leadership: Deliberate Community Engagement.



Brenda Jeffs, Director,
Municipal Law Enforcement and Licensing Services



Tracy Adams, Commissioner,
Corporate Services Department

2022 Benchmarking – Noise By-laws and Noise Exemption Processes

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
Town of Ajax	None	<ul style="list-style-type: none"> • Events undertaken by the Town • Emergency work for the health/safety/welfare of the Town's inhabitants • Emergency work carried out by the Town, Region of Durham, or utility companies • Farm equipment/machinery • Municipal operations (e.g. snow clearing, street cleaning) • Snow removal for the operation of a business, condo, school 	Yes, on a case-by-case basis	N/A	N/A
City of Brampton	The Chief of Planning and Infrastructure Services , or designate	<ul style="list-style-type: none"> • Church bells • Agricultural zones • Steam or air whistles • Military or other bands for parades with written permission from the City • Railway or railway work • Road work done by Ministry to Transportation, or the Region of Peel • Noise that has an Environmental Compliance Approval or a similar approval from the Ministry of Environment, Conservation and Parks 	Yes, on a case-by-case basis	<p>All property owners within a 500m radius from the site must be notified</p> <p>Note: a 'notification plan' is satisfactory to an application, so the notice can be given before or after the exemption is granted</p>	N/A

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
Municipality of Clarington	Appropriate Staff	<ul style="list-style-type: none"> • Emergency Services (e.g. fire, police) • the Bowmanville Foundry Co. Ltd., manufacturing; • Goodyear Canada Inc., manufacturing; • Oshawa Ski Club, recreational snowmaking; • Mosport Park, automobile and motorcycle racing; • Blue Circle Canada Inc., its licensed pit and quarry operations and all accessory uses related thereto 	N/A	N/A	N/A
City of Guelph	None	<ul style="list-style-type: none"> • Emergency involving the public • City employees, contractors, etc. carrying out City operations or maintaining municipally-owned infrastructure • Approved Council events • Sport or events in parks authorized by the City • Cultivating agriculture • Excavation equipment in a cemetery or interment services 	Yes	The City posts on social media and in newspapers notifying residents of the requested exemptions, with the opportunity to appeal the exemption	\$755

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
City of London	<p>The Manager of By-law Enforcement has the power and authority to grant exemptions for:</p> <ul style="list-style-type: none"> • Amplified Live Speech • Amplified Patio Sound • Construction or Community Event 	<ul style="list-style-type: none"> • Police • Railway/airport • Public necessity – emergency • City equipment – snow removal, road cleaning, etc. • Signaling devices • City construction projects • Fireworks • Industrial use in industrial zone • Normal farm practice • Public utilities • Work approval – Streets by-law • Public election • Special event authorized by City • Community event in compliance with City's policy • Snow removal 	No	<p>London does not have an exact radius notification requirement, but depending on the type of noise (construction or music from a patio) they would ask that the applicant notify the closest neighbors</p> <p>Depending on the nature of the application, City Staff may contact the Ward Councilor and provide details of the exemption</p>	<p>Application fee of \$75.00;</p> <p>Temporary noise permit fee of \$100.00;</p> <p>No fees associated with a permit for Amplified Live Speech</p>

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
City of Markham	<p>The Clerk is authorized to grant exemptions to the Noise By-law for:</p> <ul style="list-style-type: none"> • Fireworks • Electronic devices for amplified noise • Yelling, shouting, hooting, whistling, singing • Construction noise <p>All other requests will be considered and approved by Council</p>	<ul style="list-style-type: none"> • Authorized Emergency Vehicles • Operations of bells at traffic signal locations and railway crossings • Operations of city machines and equipment (e.g. crosswalk painting machines, catch basin cleaners, tree/shrub pruning, city owned or contracted street cleaners, construction equipment on behalf of the city such as snow removal, etc.) • Any noise related to religious worship 	No	<p>There are two different processes for notifying surrounding properties of a noise exemption:</p> <p>Residential and special events:</p> <p>After the exemption has been granted, the applicant has to send out a letter (provided by the City) to neighbouring properties at least seven (7) days in advance of the event start date. Markham provides them with the addresses that they need to notify</p> <p>Construction/ Public Works:</p> <p>Applicants typically have their own form that they circulate to neighbouring properties</p>	\$327

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
City of Mississauga	Commissioner of Transportation and Works	<ul style="list-style-type: none"> • Emergency measures undertaken for: • Health, Safety, or welfare of City inhabitants • Preservation or restoration of property • Any of the traditional, festive, religious, or other activities set out in Schedule 3 of the by-law (local festivals, holidays, celebrations, etc.) 	Yes, on a case-by-case basis	<p>Proof of publication for two consecutive days within the preceding ten (10) days in a newspaper of general circulation within the City, of a notice of intention to apply for any exemption to this by-law,</p> <p>or</p> <p>By the distribution of a flyer as prescribed by the City to all residences within a five hundred (500) meter radius of the subject property either by mailing it, or delivering it door to door</p> <p>City staff will do random checks to confirm the notice has been circulated</p> <p>Local residents then have two (2) weeks to voice concerns, objections, or comments</p>	\$259.62

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
Town of Newmarket	<p>Director</p> <p>The Mayor, Deputy Mayor, Regional Councillor, or Ward Councillor may request a noise exemption request be considered by the Committee of the Whole</p>	<ul style="list-style-type: none"> • A matter of public necessity or public Emergency; • Measures undertaken by the Town, its servants, employees, contractors or agents to carrying out Town operations or to operate, maintain or install municipally-owned infrastructure, facilities or the like, or to deliver municipal services; • A vehicle of the York Region Police Service, provincial or federal police, Central York Fire Services, or York Region Paramedics Services, while in performance of their duty; • The operation of machines and equipment by or on behalf of the Town, including but not limited to snow removal equipment, road cleaning equipment, grass cutting or field maintenance equipment, tree and shrub pruning and mulching equipment, painting machines for crosswalks and Highways; • The collection or disposal of garbage, waste or recyclable material by or on behalf of the Town; • The operation of equipment in conjunction with Town Construction projects, Town general maintenance projects, and Town Emergency maintenance projects; 	Yes, on a case-by-case basis	No	<p>Application: \$75</p> <p>Permit Fees:</p> <p>Events:</p> <p>1 day \$25.50</p> <p>2-5 day \$61.50</p> <p>Construction:</p> <p>1 day: \$79</p> <p>under 6 months: \$153.75</p> <p>over 6 months: \$230.50</p>

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
		<ul style="list-style-type: none"> • Necessary municipal work and Emergency work that cannot be performed during regular business hours; • Operation of machinery by or on behalf of a public utility where work needs to be done to minimize service interruptions; • Construction or an Event for which a valid temporary Noise permit has been issued, but only if the terms 			
City of Pickering	City Clerk Note: Exemptions are not generally available but may be granted for large-scale construction projects which are time sensitive (e.g. road repair, concrete pouring, etc.)	<ul style="list-style-type: none"> • Any special event provided that the necessary permissions or approvals have been obtained from the City and the Durham Regional Police Service. • Any emergency work undertaken for the immediate health, safety or welfare of the inhabitants of the City or for the preservation, protection or restoration of property. • Any emergency work being carried out by the City, The Regional Municipality of Durham, any electric utility company, any natural gas utility company, or any telephone utility company. • Necessary municipal operations carried out in the interest of public necessity and convenience, including but not limited to snow clearing, street cleaning and garbage collection, undertaken by or on behalf of the City 	Yes, on a case-by-case basis	N/A	N/A

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
		<ul style="list-style-type: none"> Any snow removal which IS essential for the effective operation of a business. 			
City of Richmond Hill	Director	<ul style="list-style-type: none"> Operation of emergency vehicles. Any community event which is run by the Corporation, has received Council approval for in-kind services, or is hosted by a Councillor of the Corporation Operation of machines and equipment by or on behalf of the Corporation Operation of machinery by or on behalf of a Provincial, Regional, or public utility Construction project where the work needs to be done outside of the allowed periods to minimize service interruptions. Operation of Construction Equipment where the Corporation has issued a road use permit and in issuing such permit the Corporation mandates that the work be done on weekends or overnight to minimize traffic impacts. Construction Equipment and machinery, including snow removal equipment, used by or on behalf of the Corporation while carrying on or engaged in the performance of public works 	Yes	This is a best practice recommendation, but not established in their by-law	Construction - \$300 Special Events - \$100

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
City of Toronto	Executive Director	<ul style="list-style-type: none"> • Bells or sirens required for the purposes of public safety including sirens when operated by Police Services, Fire and Paramedic Services, or bells or whistles operated by rail or transit services • Measures undertaken for the immediate health, safety or welfare of persons under emergency circumstances • Measures undertaken as a result of an emergency requiring immediate action for the construction, preservation, restoration or demolition of any highway • Government Work 	Yes	On receipt of an application that is satisfactory to Municipal Licensing and Standards (ML&S), ML&S provides notice, in writing, to the local Ward Councillor(s) where the event or activity is to be held. The Councillor(s) has fourteen (14) days to review and respond to the notice	<p>\$100</p> <p>The city may determine that noise monitoring is required for permit approval – if so, the fee is \$60 per hour per officer, plus tax – events after 7 p.m. may require two officers</p>
City of Vaughan	Director of Enforcement	<ul style="list-style-type: none"> • The City or Regional Municipality of York, the Province of Ontario, the Government of Canada or any of their agents when the emission of Sound is in connection with work undertaken for the immediate health, safety or welfare of the inhabitants of the City • Snow removal activities conducted by the City, Regional Municipality of York, or the Province of Ontario. • The clearing of snow from designated fire routes 	No	Communication notices be delivered to surrounding residents and businesses within a sixty (60) metre radius of the site at least two (2) weeks prior to the start date. (If there is less than two (2) weeks prior to the start date, notices must be hand-delivered prior to the project start).	\$335.24

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
				<p>This communication must include, at a minimum:</p> <p>The applicant's organization and any agencies the work is being performed on behalf of</p> <p>An explanation of the work to be performed, including what it will accomplish, where, when, a description of the expected noise and noise levels, and steps that will be taken to mitigate noise; and</p> <p>Contact information for the construction supervisor and any other agencies involved, with an explanation of who can be contacted in the event of a complain</p>	

Municipality	Delegated Authority	Established Exemptions	Exempt Public Authorities	Notice Process	Fees
Town of Whitby	Commissioner of Public Works can grant exemptions for construction works undertaken by the Town of Whitby, Region of Durham, and/or Ministry of Transportation (with the exemption of Highway 407 related activities)	<ul style="list-style-type: none"> • Any special event held by the Town • Any emergency work being carried out by the Town, the Regional Municipality of Durham, the Ministry of Transportation, any electric utility company; natural gas or telephone utility • Necessary operations carried out in the interest of public necessity and convenience, including but not limited to snow clearing, street cleaning and garbage collection, undertaken by or on behalf of the Town or the Region. • Any snow removal activities which are essential for the effective operation of a business. 	Yes, on a case-by-case basis.	No	\$110 per day

Timelines for Noise Exemption Options

The examples below show approximate timelines when an application is received on April 22, 2022. For Options “B” and “C” that include considerations for the Committee and Council schedule, timelines may vary depending on when the application is received.

Option “A” – Staff Administered

				April											May										
Task	Duration (days)	Start	Finish	22	23	24	25	26	27	28	29	30	1	2	3	4	5	6	7	8	9	10	11		
Application Fee and Request Received	1	April 22	April 22																						
Notice Preparation and Mail Out	2	April 23	April 24																						
Participation Period	14	April 25	May 8																						
Director Review and Decision	1	May 9	May 9																						
Follow up	2	May 10	May 11																						
Total Days	20																								
Note:																									
Significant conditions placed on the exemption (e.g. Newspaper Advertisement) could extend the follow up time to seven (7) days																									

Option “B” – Council Administered

Task	Duration (days)	Start	Finish	April											May															June				
				22	23	24	25	26	27	28	29	30	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
Application Fee and Request Received	1	April 22	April 22																															
Notice Preparation and Mail Out	2	April 23	April 24																															
Participation Period	37	April 25	May 31																															
Committee Meeting	1	June 6	June 6																															
Council Meeting	1	June 20	June 20																															
Follow Up	2	June 21	June 22																															
Total Days	62																																	

Notes:
The participation period is two (2) weeks, but staff will accept feedback any time prior to a Committee Agenda being finalized
Sixty-seven (67) days is the total amount of time this example would take, however there are no activities prior to the scheduled Committee Meeting (June 1-5), or between the scheduled Committee Meeting, and Council Meeting (June 7-19)
Significant conditions placed on the exemption (e.g. Newspaper Advertisement) could extend the follow up time to seven (7) days

Option “C” – Current Exemption Request Process

Task	Duration (days)	Start	Finish	April											May																						
				22	23	24	25	26	27	28	29	30	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
Application Fee and Request Received	1	April 22	April 22																																		
Committee Meeting	1	May 9	May 9																																		
Council Meeting	1	May 24	May 24																																		
Follow up	2	May 25	May 26																																		
Total Days	35																																				

Notes:

Thirty-five (35) days is the total amount of time this example would take, however there are no activities prior to the scheduled Committee Meeting (April 23 - May 8), or between the scheduled Committee Meeting, and Council Meeting (May 10 - May 23)

Significant conditions placed on the exemption (e.g. Newspaper Advertisement) could extend the follow up time to seven (7) days



January 20, 2022

Kenneth Man
City of Oshawa
50 Centre Street South
Oshawa, Ontario L1H 3Z7

Re: Proposed Noise Exemption Request Process

The Durham Region Home Builders' Association (DRHBA) would like to thank City staff for reaching out to us for feedback on the proposed noise exemption process. When the City reached out to us on the same topic in the spring of 2020, we responded with correspondence (attached) that contained our feedback, and those comments still represent the views of the Association.

Our team has reviewed the three options provided and we feel that Option "C" – Maintain Current Process will work the best for both the industry and the City of Oshawa.

The province of Ontario is currently experiencing a severe housing shortage. A recent study from Scotiabank noted that Ontario would have to build 650,000 homes just for its ratio of dwellings to population to equal that in the rest of the country. In addition, Canada's population-adjusted housing stock is the lowest in the G7. As a result, housing prices have skyrocketed.

Considering the above information and the current affordability crisis, DRHBA is encouraging all municipalities to streamline their processes to become as efficient as possible – allowing builders and developers to bring more units online and available to purchasers.

Our concerns with Options "A" and "B" are that the timelines involved add unnecessary delays to the process. In addition, when seeking feedback from the public, it is likely that any feedback the City would receive would be against the noise exemption. In some instances, working past the allowed times is necessary, such as a continuous concrete slab pour or repairs to infrastructure (watermain or sanitary sewer repair), and if exemptions are not granted due to public feedback, work will stop.

DRHBA believes that since noise is sometimes required during construction that it would be more productive to educate the public instead of inviting feedback and complaints.

While the Association supports Option "C", we do have concerns about the lack of committee and council meetings during July and August – prime construction season. We would support a provision that would allow staff to approve the noise exemptions during this time to prevent unnecessary delays and to allow building to continue.

Sincerely,



A handwritten signature in black ink, appearing to read "Stacey Hawkins".

Stacey Hawkins
Executive Officer
Durham Region Home Builders' Association

cc:
Paul Ralph, City Manager, City of Oshawa
Warren Munro, Commissioner of Development Service, City of Oshawa
Tiago Do Couto, president, DRHBA
Domenic Chiodo, vice-president, DRHBA



Durham Region Home Builders' Association
1-1255 Terwillegar Avenue
Oshawa, Ontario L1J 7A4
Tel. (905) 579-8080

May 28, 2020

Kenneth Man
City of Oshawa
50 Centre Street South
Oshawa, Ontario L1H 3Z7

Re: Proposed Noise Exemption Request Process

The Durham Region Home Builders' Association (DRHBA) proudly represents over 170 member companies that are involved in the construction and renovation industry, and is the voice of the residential construction industry in Durham Region.

First, DRHBA would like to thank City staff for reaching out to us for feedback on the proposed noise exemption request process. We really appreciate how the City of Oshawa involved the development community in their decision making processes.

The Durham Region Home Builders' Association fully supports the ability of staff to work with builders and developers to allow construction to continue past the set out municipal noise bylaw times as may be required. This is essential to builders during certain circumstances, for example, a continuous concrete slab pour is in many cases needed for structural integrity. Screeding and finishing of concrete must occur after a concrete pour and takes many hours to complete (often well into the night) and needs to be completed while the concrete is still wet. Yet another example is a repair to infrastructure (such as water main or sanitary sewer repair), that may need to be completed during off hours.

However, the Durham Region Home Builders' Association has a few concerns with the process proposed.

In the City of Oshawa's proposal, it states that council directed staff to examine the following in relation to noise exemption requests: "That in the future, when the City of Oshawa receives an application for extension of hours for noise generation that the City circulate a notice to area residents prior to the application being heard at committee." In response, the City's proposal includes that "Applicants will be required to submit an application and pay a \$250 application fee at least 60 days in advance of the activity. The 60 day timeline is required to allow sufficient time for staff to undertake public notice activities and to allow for public feedback to be received."

It is completely valid to send notices to area residents that may be affected by construction operating outside of normally accepted hours, but feedback should not be solicited. It's entirely likely that when feedback is solicited, no extension will ever be granted. It is very concerning to the Association that with public feedback requested and received that some applications could be denied. As with the concrete example above, it is a part of construction that must be continuous and cannot be stopped and restarted. With a denied application, it would be difficult, if not impossible, for developers and builders who may be required to perform any of these tasks that require extended hours to continue to operate in Oshawa, which is certainly not ideal in the current climate of needing more investments into local economies.

Without the public feedback portion of the notice, the City of Oshawa can also eliminate the 60 day notice period as would be required in the proposed bylaw.

Collecting feedback from the public on this matter will also add delays to construction timelines, and delays equal increased costs.

By mandating that council approval will be required, the timeline is delayed even further. The proposal also does not specify, what, if any, recourse is available to a builder/developer if their application is denied. If the builder/developer must reapply, all of the delays are again added to the timeline.

The Durham Region Homebuilders' Association believes that since noise is sometimes required during construction that it would be more productive to educate the public instead of inviting feedback and complaints.

With these concerns in mind, the Durham Region Home Builders' Association recommends that staff be given the authority to review and approve requests to work outside of the municipal noise restrictions. When a request is granted by City staff, a notice can be placed on the City's website and notices sent out to residents within the specified area, ensuring they are aware of what will be taking place, but removing the delays and complaints that come with public consultation. The Association feels that with these minor changes to the process, building can continue unabated and allow the City of Oshawa to grow at an appropriate pace.

We appreciate that the City of Oshawa will take our comments into consideration and we are available to answer any further questions you may have.

Sincerely,



Stacey Hawkins
Executive Officer

Durham Region Home Builders' Association

cc:

Paul Ralph, City Manager, City of Oshawa

Warren Munro, Commissioner of Development Service, City of Oshawa

Johnathan Schickedanz, president, DRHBA

Tiago Do Couto, vice-president, DRHBA

To: Corporate Services Committee

From: Mary Medeiros, City Clerk,
Tracy Adams, Commissioner,
Corporate Services Department

Report Number: CORP-22-08

Date of Report: February 2, 2022

Date of Meeting: February 7, 2022

Subject: 2022 Municipal Election Joint Compliance Audit Committee

Ward: All Wards

File: 03-05

1.0 Purpose

The purpose of this report is to:

- advise Council of the establishment of a 2022 Municipal Election Joint Compliance Audit Committee (“the Committee”) in accordance with the requirements as set out in the *Municipal Elections Act, 1996*, S.O 1996 c.32, Sched. as amended (“the Act”);
- seek Council's approval of the Committee's Terms of Reference which have been prepared in collaboration with staff from the Town of Ajax, the Regional Municipality of Durham (“the Region”), the City of Oshawa, the City of Pickering and the Town of Whitby with the intent to be approved by their respective Councils;
- authorize the City Clerk to prepare a by-law for Council's consideration to appoint members to the roster of candidates for the Committee as selected by the Region, Town of Ajax; the City of Oshawa, the City of Pickering and the Town of Whitby; and,
- establish the Committee as required under Section 88.37 of the Act.

Attachment 1 is the draft Terms of Reference for the 2022 Municipal Election Joint Compliance Audit Committee.

Attachment 2 is the report to Regional Council adopted at its January 26, 2022 meeting.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

1. That the draft Terms of Reference for the 2022 Municipal Election Joint Compliance Audit Committee as set out in Attachment 1 of Report CORP-22-08 dated February 2, 2022 be endorsed; and,
2. That the City Clerk be authorized to bring forward a by-law for Council approval that would provide for the remuneration and appointment of a roster of individuals to the 2022 Municipal Election Joint Compliance Audit Committee in accordance with the Terms of Reference; and,
3. That, at such time as the above by-law is enacted by Council, that the 2022 Municipal Election Compliance Audit Committee be deemed to be established in accordance with the Municipal Elections Act.

3.0 Executive Summary

Section 88.37 of the Act requires the council of a municipality to establish a Compliance Audit Committee ("Committee") before October 1st in an election year to review applications made by electors who believe on reasonable grounds that a candidate in that election has contravened one or more provisions of the Act related to election campaign finances.

In addition to supporting the work of the Committee, the City Clerk is also required to process applications for compliance audits and to review campaign contributions to identify any apparent exceedances of limits and forward them to the Committee, and to carry out any other duties to implement the Committee's decisions as prescribed in the Act.

4.0 Input From Other Sources

- Legal Services
- 2022 Participating Bodies (Town of Ajax, the Region, City of Oshawa, City of Pickering, and Town of Whitby)
- Municipality of Clarington
- Municipal Elections Act, 1996, S.O 1996 c.32, Sched. as amended

5.0 Analysis

5.1 Legislative Requirements and Responsibilities

City Council is required to establish a Committee prior to October 1, 2022 as per Section 88.37 of the Act. The 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, members of the council or any persons who are candidates in the election for which the Committee is established. The term of office of the Committee and its members is the same as the council that takes office following the next regular election.

Municipal Election Compliance Audit Committees receive and make decisions on applications for compliance audits of campaign finances for municipal council and school board candidates and registered third-party advertisers in a municipal election or by-election. Committees perform functions relating to the compliance audit application process as outlined in the Act. These functions include:

- considering reports from municipal clerks identifying contributors who appear to have contravened election contribution limits, and deciding whether legal proceedings should commence;
- considering whether an application for a compliance audit filed by an elector should be granted or rejected;
- appointing an external auditor selected by the Committee, if the application is granted; and,
- receiving and considering the auditor's report and deciding whether legal proceedings should commence.

Section 88.33 of the Act, provides that an eligible elector, who believes on reasonable grounds that a candidate has contravened a provision of the Act relating to election campaign finances, may apply for a compliance audit of the candidate's election campaign finances. The application must be submitted to the City Clerk in writing, include the reasons for the application, and must be submitted within 90 days after the latest of the following four dates:

- The filing date for financial statements;
- The date the candidate filed a financial statement, if the statement was filed within 30 days after the applicable filing date;
- The candidate's supplementary filing date, if any; or
- The date on which the candidate's extension, if any, expires.

The Committee must consider any applications received within 30 days.

Compliance audit requests related to Regional Chair candidates are submitted to the Office of the Regional Clerk. Compliance audit requests related to candidates in other municipal offices are submitted to the applicable municipal Clerk. Requests related to School Board candidates are submitted to the secretary of the appropriate School Board.

5.2 2018 Municipal Election Compliance Audit Committee

For the 2018 Municipal Election, the City of Oshawa along with the Region, Town of Whitby, City of Pickering and the Durham District School Board ("2018 Participating Bodies") partnered to form a joint Committee. At that time, the City Clerk was granted the authority by Oshawa City Council to:

- Establish and approve the 2018 Compliance Audit Committee's Terms of Reference and administrative practices and procedures;

- Establish membership criteria and qualifications required to ensure a competent Committee can be formed, consistent with the Act;
- Recruit and appoint a roster of individuals eligible to be Committee members;
- Call and constitute a Committee among the roster of appointed eligible members, in keeping with the Committee's Terms of Reference, and administrative practices and procedures.

A Joint Committee roster was successfully recruited and formed by the 2018 Participating Bodies in June of 2018. Members on the roster began their term on December 1, 2018 and will complete their term on November 14, 2022. No applications for a compliance audit have been filed by an elector related to the 2018 Municipal Election in the City of Oshawa. Additionally, no contributors were identified as having contravened 2018 Municipal Election contribution limits in the City.

5.3 2022 Municipal Election Compliance Audit Committee

In preparation for the 2022 Municipal Election, City Clerk Services staff engaged in consultations in 2021 with Durham Region municipalities to establish participation in a joint Committee for the 2022 term. For this term, the Participating Bodies interested in having a joint Committee are the Town of Ajax, the Region, the City of Oshawa, the City of Pickering, and the Town of Whitby ("2022 Participating Bodies"). The 2022 Participating Bodies, including the City, have individually obtained legal opinions to ensure the attached Terms of Reference (Attachment 1) and shared approach are consistent with the requirements and principles of the Act.

Particular attention was given to the approach taken in 2018 and whether the 2022 Participating Bodies should follow the same process. In the interest of developing a consistent approach, the 2022 Participating Bodies have agreed to request each Council approve the appointment of no more than seven (7) members to the roster by by-law. This decision by the 2022 Participating Bodies conforms with the opinion provided by the City's Legal Services.

The joint process will realize recruitment cost savings and provide the City with greater access to credible and qualified members. Additionally, the joint Committee will encourage consistent procedures and practices amongst the 2022 Participating Bodies. In order to ensure consistency across all 2022 Participating Bodies, it is important for the Terms of Reference to be adopted as presented and approved by Regional Council at its January 26, 2022 meeting (Attachment 2).

The recruitment of members to the Committee will be done collectively by the Participating Bodies with the central intake of applications being facilitated by the Region. A selection committee comprised of the City Clerk, or designate, from each 2022 Participating Body will identify qualified candidates to form a roster of seven (7) individuals eligible to serve on the Committee. The following seven criteria shall be assessed:

- Demonstrated knowledge and understanding of municipal elections, including campaign financing rules;

- Proven analytical and decision-making skills;
- Experience working on committees, task forces or similar settings;
- Demonstrated knowledge of quasi-judicial proceedings;
- Availability and willingness to attend meetings;
- Excellent oral and written communication skills; and,
- Preference will be given to individuals with experience in accounting, law, law enforcement, municipal elections and academics from related fields.

All applicants will be required to complete an application form outlining their qualifications and experience.

After the completion of the recruitment process, staff will bring a by-law to Council for the remuneration and appointment of a roster of individuals as per the draft Terms of Reference (Attachment 1). Upon Council's enactment of the by-law, the Committee will be established.

Upon the receipt of an application for a compliance audit or a report from the City Clerk, the City Clerk, without any input from members of the Participating Bodies, will select three (3) available eligible members from the roster to constitute the Committee. Members will be selected based on availability and with the goal of having varied knowledge and experience on the Committee.

Oshawa's Committee will review applications and reports for candidates running for any office or any registered third party advertiser in the City of Oshawa. As indicated in Section 5.1, compliance audit requests related to candidates for the Regional Chair and candidates in other municipalities are to be submitted to their respective Clerk, and School Board candidates are to be submitted to the secretary of the appropriate School Board.

6.0 Financial Implications

The Region will pay the costs for recruitment advertising, while the 2022 Participating Bodies will collectively share the cost of an annual retainer of \$400 to individuals on the roster for the Committee. The retainer is intended to compensate for required training and review of compliance audit decisions, relevant case law and literature. A per-diem rate of \$350, plus mileage, is also provided by the applicable municipality, per individual called to serve on the Committee. Costs for operating the Committee are paid from the City's election reserve.

7.0 Relationship to the Oshawa Strategic Plan

The approval of the Terms of Reference for the 2022 Municipal Election Joint Compliance Audit Committee supports the Oshawa Strategic Plan goal of Accountable Leadership.

A handwritten signature in black ink, appearing to read "Mary Medeiros", enclosed within a thin black rectangular border.

Mary Medeiros, City Clerk,
Corporate Services Department

A handwritten signature in black ink, appearing to read "Tracy Adams", enclosed within a thin black rectangular border.

Tracy Adams, Commissioner,
Corporate Services Department

**2022 Municipal Election
Joint Compliance Audit Committee
Terms of Reference**

Name:

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

Definitions:

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

Participating Bodies means the Town of Ajax, Regional Municipality of Durham, City of Oshawa, City of Pickering, and the Town of Whitby.

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 Bodies.

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

Term of Committee:

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 applicable Committee has disposed of any remaining matters in accordance with the Act, whichever is later.

Composition:

When a compliance audit application from an elector or a report from the Clerk indicating a candidate or registered third party has contravened any of the contribution limits under section 88.9 of the Act is received, the Committee comprised of three (3) members shall meet and consider the application and/or report in accordance with the Act.

Members forming the Committee shall be selected by the Clerk from a roster of qualified individuals, who have been jointly recruited by the Clerks of the Participating Bodies.

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 on the roster 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 selected as 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.

Conduct of Members:

Members of the Committee shall comply and conduct themselves in accordance with the Joint Compliance Audit Committee Administrative Practices and Procedures for the Participating Bodies.

Members shall not use their position on the Committee for any personal or political gain.

Remuneration:

Remuneration will be as follows:

- \$400.00 retainer fee (costs will be shared equally by the Participating Bodies) 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 Bodies. Payment of the retainer fee does not denote membership on a committee and covers the four (4) year term; and
- \$350.00 per meeting attended, plus mileage in accordance with the rate normally paid to employees of the applicable Participating Body. The per meeting rate shall cover review of background or agenda materials as required in preparation for a meeting.

Membership Selection:

At a minimum, the recruitment of persons to be included on the roster of individuals shall be advertised in a local newspaper having general circulation and on the websites of the Participating Bodies. Other recruitment measures may be initiated by the Clerks of the Participating Bodies.

All applicants will be required to complete an application and may be subject to further screening and an interview. The selection process will be determined by the Clerks of the Participating Bodies.

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

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

The following criteria will be considered when appointing members:

- Demonstrated knowledge and understanding of municipal election campaign financing rules,
- Proven analytical and decision-making skills,
- Experience working on committees, boards, adjudicative bodies, task forces or similar settings,
- Experience in accounting and audit, law, law enforcement, academics, or municipal administration from related fields,
- Demonstrated knowledge of quasi-judicial proceedings,
- Availability and willingness to attend meetings; and,
- Excellent oral and written communication skills.

Meetings:

Meetings will occur as needed and shall be conducted in accordance with the Joint Compliance Audit Committee Administrative Practices and Procedures for the Participating Bodies.

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.

Role of Clerk:

The Clerk 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.

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 2126



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Corporate Services
Report: #2022-A-1
Date: January 18, 2022

Subject:

2022 Municipal Elections Compliance Audit Committee

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That the draft Terms of Reference included as Attachment #1 to this report be approved.
 - B) That the Regional Clerk be authorized to bring forward a by-law for the remuneration and appointment of a roster of individuals as per the draft Terms of Reference; and
 - C) That at such time as the above by-law is enacted by Council, that the 2022 Municipal Election Compliance Audit Committee be deemed to be established in accordance with the Municipal Elections Act.
-

Report:

1. Purpose

- 1.1 The purpose of this report is to approve the 2022 Municipal Elections Compliance Audit Committee Terms of Reference, provide authority to the Regional Clerk to recruit members for a joint Compliance Audit Committee roster in cooperation with other participating bodies (Town of Ajax, City of Oshawa, City of Pickering and the Town of Whitby) and then to prepare a by-law for Council's consideration to appoint the members to the roster and thereby establish the 2022 Municipal Elections Compliance Audit Committee in accordance with the Municipal Elections Act.

2. Background

- 2.1 For the 2018 municipal election, the Region of Durham (“Region”), City of Oshawa, Town of Whitby, City of Pickering and the Durham District School Board partnered to form a joint Compliance Audit Committee. At that time, the Regional Clerk was granted the authority by Council to:
- a. Establish and approve the 2018 Compliance Audit Committee’s terms of reference and administrative practices and procedures.
 - b. Establish membership criteria and qualifications required to ensure a competent Compliance Audit Committee can be formed, consistent with the Municipal Elections Act, 1996.
 - c. Recruit and appoint a roster of individuals eligible to be Compliance Audit Committee members; and
 - d. Call and constitute a Compliance Audit Committee among the roster of appointed eligible members, in keeping with the Committee’s terms of reference, and administrative practices and procedures.
- 2.2 For the 2022 municipal election there has been consideration given as to whether the same approach should be taken. This discussion amongst the area Clerks and Solicitors in the municipalities of Ajax, Clarington, Oshawa, Pickering, Whitby and the Region has largely centered on the interpretation of the Municipal Elections Act (“Act”) as it pertains to the appointment of members to compliance audit committees and whether the Regional Clerk can in fact be granted the authority by Council to appoint those members. Another item contemplated has been the number of members permitted to be on a joint compliance audit committee roster.
- 2.3 There are differing opinions on the interpretation of the Act as it pertains to these matters, and in the interest of a harmonized and uniform approach the participating bodies have determined that it is prudent to request that each Council approve the appointment of members to the roster by by-law and that the roster contain no more than seven (7) members.
- 2.4 The Regional Clerk, along with the Clerks from the municipalities of Ajax, Oshawa, Pickering and Whitby, have formed a partnership in order to recruit and appoint a roster of eligible members for their respective Compliance Audit Committees. Working together will streamline the administrative processes involved with the recruitment and training of members and also allow for a larger pool of eligible members. It may also provide greater opportunities for the members to participate in the compliance audit process and gain valuable experience in this regard.
- 2.5 It is our understanding that the Clerks in the northern municipalities of Brock, Scugog and Uxbridge will establish a joint Compliance Audit Committee, similar to what was done for the 2018 Municipal Election. The Municipality of Clarington will appoint their own committee.

3. Legislative Requirements

- 3.1 Section 88.37 of the Municipal Elections Act (“Act”) requires the Region of Durham to establish a Compliance Audit Committee prior to October 1 of a municipal election year.
- 3.2 The Act provides that a Compliance Audit Committee shall consist of between three and seven members and cannot include any employees or officers of the Region of Durham, any members of Regional Council, any candidate in the election for which the Compliance Audit Committee is established, or any persons who are registered third party advertisers in the election for which the committee is established. In accordance with the Act the term of office for the Compliance Audit Committee shall run concurrently with the term of Council.
- 3.3 A Committee of three would be constituted by the appropriate municipality when an application for a compliance audit or a report from the Clerk is received, by selecting available eligible members from the roster. Members will be selected based on availability and with the goal of having varied knowledge and experience on the Committee. The Region’s Compliance Audit Committee would only consider applications or reports related to candidates for the Office of Regional Chair. Should the Region have the need to constitute a second or subsequent Committee, different members from the roster may be called upon.
- 3.4 Under the Act, candidates are bound by specific election campaign finance rules and must file provincially prescribed financial statements with the Regional Clerk outlining their campaign finance activities. Section 88.33 (1) of the Act, provides that an eligible elector, who believes on reasonable grounds that a candidate has contravened a provision of the Act relating to election campaign finances, may apply for a compliance audit of the candidate’s election campaign finances, even if the candidate has not filed a financial statement under section 88.25. The application must be submitted to the Regional Clerk in writing, include the reasons for the application, and must be made within 90 days after the latest of the following four dates:
 - a. The filing date for financial statements.
 - b. The date the candidate filed a financial statement, if the statement was filed within 30 days after the applicable filing date.
 - c. The candidate’s supplementary filing date, if any; or
 - d. The date on which the candidate’s extension, if any, expires.

The Committee must consider any applications received within 30 days.

- 3.5 The Act allows for compliance audits of registered third party advertisers. Section 88.35 (1) of the Act, provides that an eligible elector who believes on reasonable grounds that a registered third party has contravened a provision of the Act relating to campaign finances, may apply for a compliance audit of the campaign finances of the registered third party, even if the registered third party has not filed a financial statement under Section 88.29. Requests for compliance audits of a third party advertiser's campaign finances would be filed with the Clerk of the municipality in which the third party advertiser registered, not the Regional Clerk.
- 3.6 The Act requires the Regional Clerk to prepare reports dealing with apparent campaign contributions in excess of the permitted limits in accordance with sections 88.34 or 88.36 of the Act. Should the Clerk determine that a contributor has exceeded the limits; the Clerk must prepare a report and forward it to the Compliance Audit Committee.
- 3.7 The Compliance Audit Committee's role includes the following five duties:
- a. Reviewing applications for compliance audits.
 - b. Granting or rejecting applications.
 - c. Appointing an external auditor selected by the Committee (if application granted).
 - d. Commencing legal proceedings if an audit identifies an apparent contravention; and
 - e. Reviewing reports filed by the Regional Clerk.
- 3.8 The Auditor's role includes the following three duties:
- a. Promptly conducting an audit.
 - b. Determining compliance with the Act; and
 - c. Preparing and filing a report.
- 3.9 The Regional Clerk's role includes the following four duties:
- a. Establishing administrative practices and procedures.
 - b. Supporting the work of the Committee.
 - c. Implementing the Committee's decisions; and
 - d. Reviewing and reporting on individual contributions to candidates.

4. Previous Reports and Decisions

- 4.1 [#2018-COW-22](#): 2018 Municipal Elections Compliance Audit Committee
- 4.2 [#2018-INFO-100](#): 2018 Municipal Elections Compliance Audit Committee - Update

5. Next Steps

- 5.1 A selection committee comprised of the Clerk, or designate, from each of the participating bodies will identify qualified candidates to form a roster of individuals eligible to serve on the Committee. The following six criteria shall be assessed:
- a. Demonstrated knowledge and understanding of municipal elections, including campaign financing rules.
 - b. Proven analytical and decision-making skills.
 - c. Experience working on committees, task forces or similar settings.
 - d. Demonstrated knowledge of quasi-judicial proceedings.
 - e. Availability and willingness to attend meetings; and
 - f. Excellent oral and written communication skills.
- 5.2 Preference will be given to individuals with experience in accounting, law, law enforcement, municipal elections and academics from related fields. All applicants will be required to complete an application form outlining their qualifications and experience.
- 5.3 The Regional Clerk will establish administrative practices and procedures for the Region's Compliance Audit Committee, in consultation with the Region's Corporate Services, Legal Services Division, making best efforts to maintain consistency with those established by the partner municipalities, and will carry out any other duties under the Municipal Elections Act.

6. Communication

- 6.1 Should Council adopt the recommendations contained within this report, the recruitment of members to the Compliance Audit Committee will be done collectively by the participating bodies with the central intake of applications being the Region. Each municipality will post the same ad in a newspaper with general circulation and on their respective websites.
- 6.2 In addition, the ad will also be placed in Workopolis, Society of Adjudicators and Regulators and Ontario Reports. These have been selected to target candidates with a financial and legal background. It is important that candidates understand how to apply the election campaign finance provisions of the Municipal Elections Act to fulfill their responsibilities and preference will be given to candidates that have experience in compliance audit activities, accounting, law, investigative or adjudicative processes.

7. Financial Implications

- 7.1 The Region will pay the costs for recruitment advertising utilizing the budgeted election funds to be approved in the 2022 Business Plans and Budgets. For the 2018 municipal election, costs for Compliance Audit Committee recruitment advertising were approximately \$11,000. Advertising costs for 2022 are expected to be comparable.
- 7.2 The Region and the participating bodies will share the costs for retainers for eligible Committee members, and for training. It is being proposed by the participating bodies that the retainer for members be \$400 and the per meeting cost be \$350. This is consistent with the 2018 municipal election. The Region is required to pay all costs related to the operation and activities should it constitute a Compliance Audit Committee, including any per meeting and mileage payments.
- 7.3 The Region is also required to pay the auditor's costs of performing a compliance audit, and the cost of any external legal counsel for the Committee it constitutes. It is not possible to determine with any certainty what the costs could be if a compliance audit is conducted, funds would need to be found at the discretion of the Commissioner of Finance.

8. Relationship to Strategic Plan

- 8.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
- a. Goal 5: Service Excellence. Objective: To provide exceptional value to Durham taxpayers through responsive, effective and fiscally sustainable service delivery.
- 5.1 Optimize resources and partnerships to deliver exceptional quality services and value
 - 5.2 Collaborate for a seamless service experience

9. Conclusion

- 9.1 It is being recommended that Regional Council approve the 2022 Municipal Elections Compliance Audit Committee Terms of Reference, provide authority to the Clerk to recruit members for a joint Compliance Audit Committee roster in cooperation with other participating bodies (Ajax, Oshawa, Pickering and Whitby) and prepare a by-law for Council's consideration to appoint members to the roster and thereby establish the 2022 Municipal Election Compliance Audit Committee in accordance with the Municipal Elections Act.
- 9.2 This report has been reviewed by Corporate Services – Legal Services, and the Commissioner of Finance concurs with the recommendations in this report.
- 9.3 Information on the Compliance Audit Committee will be posted on the durham.ca/elections page.
- 9.4 For additional information, contact: Ralph Walton, Regional Clerk/Director of Legislative Services, at 905-668-7711, extension 2100.

10. Attachments

Attachment #1: Draft - 2022 Municipal Joint Compliance Audit Committee Terms of Reference

Prepared by: Leigh Fleury, Legislative Officer and Deputy Clerk Pro Tem, at 905-668-7711, extension 2020.

Respectfully submitted,

Original signed by

Don Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer

**2022 Municipal Election
Joint Compliance Audit Committee
Terms of Reference**

Name:

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

Definitions:

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

Participating Bodies means the Town of Ajax, Regional Municipality of Durham, City of Oshawa, City of Pickering, and the Town of Whitby.

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 Bodies.

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

Term of Committee:

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 applicable Committee has disposed of any remaining matters in accordance with the Act, whichever is later.

Composition:

When a compliance audit application from an elector or a report from the Clerk indicating a candidate or registered third party has contravened any of the contribution limits under section 88.9 of the Act is received, the Committee comprised of three (3) members shall meet and consider the application and/or report in accordance with the Act.

Members forming the Committee shall be selected by the Clerk from a roster of qualified individuals, who have been jointly recruited by the Clerks of the Participating Bodies.

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 on the roster 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 selected as 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.

Conduct of Members:

Members of the Committee shall comply and conduct themselves in accordance with the Joint Compliance Audit Committee Administrative Practices and Procedures for the Participating Bodies.

Members shall not use their position on the Committee for any personal or political gain.

Remuneration:

Remuneration will be as follows:

- \$400.00 retainer fee (costs will be shared equally by the Participating Bodies) 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 Bodies. Payment of the retainer fee does not denote membership on a committee and covers the four (4) year term; and
- \$350.00 per meeting attended, plus mileage in accordance with the rate normally paid to employees of the applicable Participating Body. The per meeting rate shall cover review of background or agenda materials as required in preparation for a meeting.

Membership Selection:

At a minimum, the recruitment of persons to be included on the roster of individuals shall be advertised in a local newspaper having general circulation and on the websites of the Participating Bodies. Other recruitment measures may be initiated by the Clerks of the Participating Bodies.

All applicants will be required to complete an application and may be subject to further screening and an interview. The selection process will be determined by the Clerks of the Participating Bodies.

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

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

The following criteria will be considered when appointing members:

- Demonstrated knowledge and understanding of municipal election campaign financing rules,
- Proven analytical and decision-making skills,
- Experience working on committees, boards, adjudicative bodies, task forces or similar settings,
- Experience in accounting and audit, law, law enforcement, academics, or municipal administration from related fields,
- Demonstrated knowledge of quasi-judicial proceedings,
- Availability and willingness to attend meetings; and,
- Excellent oral and written communication skills.

Meetings:

Meetings will occur as needed and shall be conducted in accordance with the Joint Compliance Audit Committee Administrative Practices and Procedures for the Participating Bodies.

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.

Role of Clerk:

The Clerk 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.