# Request for Decision

## Adoption of Election Compliance Audit Committee Procedure By-law

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| Presented To: | Election Compliance Audit Committee |
| Presented: | Thursday, Jan 24, 2019 |
| Report Date | Monday, Jan 07, 2019 |
| Type: | Managers' Reports |

## Resolution

THAT the Election Compliance Audit Committee adopt By-law 2019-1, a By-law of the City of Greater Sudbury Election Compliance Audit Committee for the 2018 to 2022 term to establish procedural rules for the Committee, as outlined in the attachment to the report entitled "Adoption of Election Compliance Audit Committee Procedure By-law" from the General Manager of Corporate Services, presented at the Election Compliance Audit Committee meeting on January 24, 2019.

## Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

## Report Summary

In accordance with the Municipal Act requirements for local boards and committees, the Election Compliance Audit Committee of the City of Greater Sudbury must enact a Procedure By-law that governs the calling, notice of, place and proceedings of all meetings.

Attached to this Report is By-law 2019-1 for adoption by the Committee. This By-law is essentially the same Procedure By-law that was reviewed and adopted by previous Election Compliance Audit Committees, with some minor amendments to reflect recent changes made to the Municipal Elections Act, especially in regards to Registered Third Parties.

## Financial Implications

There are no financial implications associated with this report.

### Signed By

**Report Prepared By**
Adam Kosnick
Manager Regulated Services/Deputy City Clerk
*Digitally Signed Jan 7, 19*

**Division Review**
Eric Labelle
City Solicitor and Clerk
*Digitally Signed Jan 8, 19*

**Financial Implications**
Jim Lister
Manager of Financial Planning and Budgeting
*Digitally Signed Jan 8, 19*

**Recommended by the Department**
Kevin Fowke
General Manager of Corporate Services
*Digitally Signed Jan 8, 19*

**Recommended by the C.A.O.**
Ed Archer
Chief Administrative Officer
*Digitally Signed Jan 9, 19*

# BY-LAW 2019-1

## A BY-LAW OF THE CITY OF GREATER SUDBURY ELECTION COMPLIANCE AUDIT COMMITTEE FOR THE 2018 to 2022 TERM TO ESTABLISH PROCEDURAL RULES FOR THE COMMITTEE

**WHEREAS** the City of Greater Sudbury is required to establish a compliance audit committee pursuant to section 88.37 of the *Municipal Elections Act*, 1996, S.O. 1996, c. 32, Sched.;

**AND WHEREAS** the Council of the City of Greater Sudbury passed By-law 2018-182 on September 25th, 2018 establishing an Election Compliance Audit Committee, adopting the Terms of Reference for the Committee and appointing four (4) persons as members of the Election Compliance Audit Committee;

**AND WHEREAS** section 238 of the *Municipal Act, 2001*, requires every local board and committee to establish a procedure by-law governing the calling, place and proceedings of meetings, and for public notice of local board meetings;

**NOW THEREFORE THE CITY OF GREATER SUDBURY ELECTION COMPLIANCE AUDIT COMMITTEE HEREBY ENACTS AS FOLLOWS:**

## 1. INTERPRETATION

1.01 Wherever this by-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the by-law with the gender applicable to the circumstances.

1.02 The headings in this by-law are inserted for ease of reference only and are not to be used as interpretation aids.

**Definitions**

1.03 For the purposes of this by-law:

"Applicant" shall mean a person who submitted an Application;

"Application" shall mean an application received by the Clerk pursuant to section 88.33 of the *Municipal Elections Act, 1996;*

"Auditor" shall mean an auditor appointed by the Committee pursuant to section 88.33 of the *Municipal Elections Act, 1996* and licensed under the *Public Accounting Act, 2004;*

"Auditor's Report" shall mean an Auditor's Report submitted pursuant to section 88.33 of the *Municipal Elections Act, 1996*;

"Candidate" shall mean a candidate whose election campaign finances are the subject of an Application;

"Chair" shall mean the Chair of the Committee selected pursuant to Article 4 of this by-law;

"City" shall mean the City of Greater Sudbury;

"Clerk" shall mean the City Clerk or his or her designate;

"Committee" shall mean the Election Compliance Audit Committee of the City of Greater Sudbury established pursuant to section 88.37 of the *Municipal Elections Act, 1996*;

"Council" shall mean the municipal council of the City of Greater Sudbury;

"Exhibits" shall mean any documents, photographs or other records submitted by an Applicant or Candidate in support of his written or oral submissions;

"*MEA*" shall mean the *Municipal Elections Act, 1996*;

"Meeting" shall mean a Meeting of the Committee;

"Member" shall mean the Members of the Committee appointed by Council for the term of the Committee;

"Registered Third Party" shall mean in relation to an election in a municipality, an individual, corporation, or trade union that is registered under section 88.6 of the *Municipal Elections Act, 1996; and*

"Third Party Advertisement" shall have the definition as found in section 1(1) of the *Municipal Elections Act, 1996.*

## 2. APPLICATION OF THIS BY-LAW

**Observance of all Rules in By-law**

2.01 The rules in this by-law shall be observed in all Meetings.

**Matters not contemplated in this by-law**

2.02 For the purpose of interpreting this by-law or determining a proper course of action for matters that may arise that are not specifically contemplated by this by-law, reference shall be made to the most recent edition of Robert's Rules of Order in existence. If these rules and Robert's Rules of Order do not provide for a matter of procedure that arises during a Meeting, the practice shall be determined by the Chair in consultation with the Clerk and the Chair may do whatever is necessary and permitted by law to enable the Committee to effectively and completely decide the matter before it.

## 3. BY-LAWS & RESOLUTIONS

### Amending this By-law

3.01 After consultation with the Clerk, the Committee may pass a by-law to modify a rule of procedure in this by-law.

3.02 A vote to modify made in accordance with Article 3.01 of this by-law must be unanimous.

3.03 All by-laws shall be signed by the Clerk and the Chair.

### All Other Matters by Resolution

3.04 All other matters of the Committee shall be dealt with by resolution signed by mover, seconder and the Chair.

3.05 Resolutions shall appear verbatim in the minutes of the meeting.

## 4. CHAIR & VICE CHAIR

### Role of the Chair

4.01 The Chair is the liaison between the Members and the Clerk on matters of policy and process.

4.02 The Chair shall enforce the observance of order and decorum amongst the Members and the public at all Meetings.

### Appointment of Chair

4.03 At its first Meeting, the Committee shall elect one of its Members as Chair and another Member as its Vice Chair for the term of the Committee. The persons elected

as Chair and Vice Chair shall be the Chair and Vice Chair for all matters before the Committee.

**Resignation or Absence of Chair or Vice Chair**

4.04 If the Chair or Vice Chair:

1) resigns as a Member,
2) resigns as Chair or Vice Chair
3) or is otherwise unwilling or unable to perform their duties,

the other Members shall appoint another Member as Chair or Vice Chair, as the case may be, for the balance of the term of the Committee.

## 5. DELEGATION BY CLERK

**Delegation by Clerk**

5.01 The Clerk may delegate administrative responsibilities to an appropriate staff member.

## 6. APPLICATIONS AND CANDIDATE /REGISTERED THIRD PARTY RESPONSES

**Application**

6.01 An Applicant shall complete an Application form.

6.02 Along with the Application form, an Applicant shall provide written submissions in support of their belief that a Candidate or Registered Third Party has contravened a provision of the *MEA* relating to election campaign finances.

6.03 The Application form, written submissions and the applicable fee pursuant to the City's User Fee By-law 2017-222, as amended or replaced from time to time, shall be submitted to the Clerk within the timelines required by the *MEA*.

6.04 The Application form shall be in a form to be determined by the Clerk.

**Candidate/Registered Third Party Response**

6.05 Where a Candidate or Registered Third Party receives notice that he is the subject of an Application, the Candidate may respond to the Application in writing.

6.06 Where the Candidate or Registered Third Parry elects to provide a written response to an Application, the response shall be submitted to the Clerk no less than 5 business days prior to the Meeting at which the Application will be considered.

6.07 Where the Clerk receives a written response to an Application from a Candidate or Registered Third Party, the Clerk shall provide a copy of the written response to all persons notified of the Meeting at which the Application will be considered, no less than 3 business days prior to the meeting at which the Application will be considered.

**Limit of Pages on Written Submissions**

6.08 Written submissions in support of an Application or a Candidate's or Registered Third Party's written response shall be provided in a legible form with a reasonable font size and be no longer than 10 pages, one-sided. The 10 page limit does not include the Application form.

## 7. FILING OF EXHIBITS

7.01 Where an Applicant, Candidate or Registered Third Party will refer to an Exhibit in their address to the Committee, Exhibits shall be submitted with their written submissions.

7.02 Where the Exhibit was not provided with the written submissions, five (5) copies of the Exhibit shall be submitted to the Clerk prior to the start of the Meeting.

7.03 Exhibits shall not be included in the 10 page limit provided for in Article 6.08.

## 8. PUBLIC REVIEW OF EXHIBITS AND SUBMISSIONS

8.01 Applications, Exhibits, copies of Exhibits and written submissions by the Applicant and Candidate or Registered Third Party will be posted on the City's website and shall be available to the public for review by request to Clerks Services.

## 9. REJECTION OF APPLICATIONS BY THE CLERK

9.01 Where an Application is submitted before or after the timelines provided in the *MEA*, an Application shall be rejected by the Clerk.

9.02 Where the Clerk determines that the Applicant is not a qualified elector entitled to make an Application in accordance with the *MEA*, the Clerk shall reject the Application.

9.03 Where the Applicant has not provided written submissions setting out the reasons for their belief that a Candidate or Registered Third Party has contravened the *MEA* relating to election campaign finances, the Application shall be rejected by the Clerk.

9.04 Where the Applicant has not complied with the requirements of Article 6.03, the Application shall be rejected by the Clerk.

## 10. NOTICE OF A MEETING

### Notice of Meeting

10.01 A Meeting notice shall be in the form of an agenda, which shall make mention of the date, time, and place for the meeting.

10.02 Where an Application will be considered at a Meeting, the notice of the Meeting shall include the content of the Application.

10.03 Meeting notices and minutes shall be posted on the City's website.

### Timing

10.04 The Clerk shall forward the Application and any accompanying submissions to the Committee within 10 days of receipt of an Application.

10.05 The Clerk shall issue a notice of a Meeting within 10 days of receipt of an Application.

10.06 The Clerk shall issue a notice of a Meeting within 10 days of receipt of an Auditor's Report.

10.07 The Committee shall consider an Application no later than 30 days after it receives the Application.

10.08 The Committee shall consider an Auditor's Report no later than 30 days after it receives the Auditor's Report.

**Who Receives Notice**

10.09 The Clerk shall give notice to:

(a) All Members;

(b) To the Applicant where their Application or a matter related to their Application will be considered;

(c) To a Candidate or Registered Third Party where an Application or Application-related matter will be considered pertaining to that Candidate or Registered Third Party;

(d) Members of Council;

(e) The Auditor when the Auditor's Report is being considered;

(f) The secretary of the local board if necessary; and

(g) Such other persons as the Chair of the meeting in question or the Clerk deems necessary.

**Notice of Meeting where Auditor's Report is Considered**

10.10 Where an Auditor's Report will be considered at a Meeting, the notice shall include a copy of the Auditor's Report.

**Posting of the Meeting Notice**

10.11 The Clerk shall also ensure that an electronic copy of the agenda is posted to the City's website prior to the meeting.

**Notice Not Received - Validity of Meeting**

10.12 Failure of any person identified in article 10.09 to receive notice of a Meeting shall not affect the validity of the Meeting, nor any decisions, recommendations, or actions resulting therefrom.

**Failure to Attend**

10.13 If an Applicant, Candidate and/or Registered Third Party fails to attend the Meeting, the Committee may proceed in the party's absence.

## 11. NOTICE OF DECISION

11.01 When the Committee has made a decision on an Application or an Application-related matter, the Clerk shall issue notice of the decision, by way of copy of the resolution and reasons for decision, to the Applicant, Candidate or Registered Third Party, and the secretary of the local board if applicable, by email or by regular mail at the addresses filed with the Clerk.

11.02 Council shall receive notice of the decision by way of the Meeting minutes.

## 12. MEETINGS

12.01 The Committee shall meet at the request of the Clerk.

12.02 Meetings shall be held at 200 Brady Street in Sudbury, Ontario, or at such other location as the Clerk deems appropriate.

12.03 Meetings shall commence at a time and date determined by the Clerk and as appears in the Meeting Notice.

12.04 Meetings shall be adjourned on a vote of the Committee.

12.05 Meetings shall be conducted in accordance with section 239 of the *Municipal Act, 2001*.

## 13. DECLARATION OF CONFLICT OF INTEREST IN AGENDA

13.01 The first matter of business on each agenda shall be the declaration of any pecuniary interest pursuant to the *Municipal Conflict of Interest Act* and the general nature thereof.

## 14. QUORUM

**Three Members Constitute Quorum**

14.01 Three members constitute a quorum, unless deemed otherwise in accordance with the *Municipal Conflict of Interest Act*.

**Lack of Quorum**

14.02 There is no quorum if:

(a) Three (3) Members are not present within 30 minutes after the time fixed for a Meeting,

(b) Three (3) Members are not present after the resumption of a Meeting after a recess, or

(c) Three (3) Members are not in attendance at all times during a Meeting.

14.03 Where there is no quorum, the Clerk shall record the names of the Members present and the Meeting shall be adjourned until the next Meeting.

## 15. RULES OF DEBATE

### Announcement of Agenda Item to be Considered

15.01 Prior to consideration of an item on the agenda, the Chair shall identify for those present the agenda item to be considered.

### Procedure for Addressing the Committee on an Application

15.02 When the agenda item is an Application, the Chair shall read an opening statement outlining the procedure and format of the Meeting.

15.03 After the opening statement and prior to consideration of an Application, the Chair shall request that the Applicant and Candidate or Registered Third Party, and/or their agents:

(a) Identify themselves to the Committee and Clerk; and

(b) Provide their names, mailing addresses and email addresses in writing to the Clerk during the Meeting.

15.04 Once an Applicant has begun to address the Committee in relation to their Application, no motion, including a motion to refer or to defer, shall be read or voted upon until the Applicant, Candidate or Registered Third Party (or their agents) have had the opportunity to address the Committee.

### Addressing the Committee

15.05 City staff may put a request to the Clerk to address the Committee.

15.06 Other persons having business before the Committee may put a request to the Clerk to address the Committee and the decision to grant that request is within the discretion of the Clerk.

15.07 When an Application is before the Committee for consideration, the Applicant or their agent may address the Committee with respect to their Application and the written submissions of the Candidate or Registered Third Party.

15.08 When an Application is before the Committee for consideration, the Candidate or Registered Third Party, or their agent, may address the Committee in response to the written or oral submissions of the Applicant.

15.09 When an Application is before the Committee for consideration, if both the Applicant and the Candidate or Registered Third Party, or their agents, wish to address the Committee, the addresses shall be made in the following order:

(a) The Applicant or the Applicant's agent.

(b) The Candidate or Registered Third Party, or their agent.

15.10 It is within the Chair's discretion to allot a specific amount of time for a party to address the Committee.

**Questions**

15.11 The Members may, through the Chair, ask questions of the Applicant or Candidate or Registered Third Party, or their agents, or City staff.

15.12 A Member may only ask question for the purpose of obtaining information relating to the matter then under discussion.

**Viewing of Documents submitted by Applicant**

15.13 The Candidate or Registered Third Party shall be permitted to view any documents or Exhibits submitted to the Committee by the Applicant or his or her agent and the Applicant shall be permitted to view any documents or Exhibits submitted to the Committee by the Candidate or Registered Third Party, or their agent.

## 16. MOTIONS

16.01 Members may make motions with respect to any business properly before the Committee.

16.02 The Clerk shall record a motion in writing.

16.03 A motion shall have a mover and a seconder.

16.04 When a motion is put forth for a vote, every Member entitled to vote and present at a Meeting shall vote, unless prohibited by statute, in which case the fact of the prohibition shall be recorded in the minutes of the Meeting. Where a Member abstains from voting, that vote shall be a vote in the negative.

16.05 If there is more than one motion with respect to a matter, the Clerk shall record all motions in writing and read the various motions to the Members prior to the vote being taken, in the order that the motions were received.

## 17. VOTING

**Majority Vote Required**

17.01 A motion is passed when a majority of Members entitled to vote, vote in favour of the matter.

**Tie Vote – Motion Deemed Lost**

17.02 In the event of a tie vote, the motion shall be deemed to be lost.

**Voting Calculation**

17.03 When a vote is called for:

(a) The count shall include only those present and not excluded from voting by the provisions of this by-law or by law; and

(b) The Chair shall be included in the count.

| **Members Entitled to Vote & Present** | **Majority** |
|---|---|
| 3 | 2 or more |

## 18. MINUTES

**Preparation of Minutes**

18.01 The Clerk shall prepare minutes of each Meeting in accordance with the *Municipal Act, 2001*.

**Adoption of Minutes**

18.02 Minutes of a Meeting shall be adopted by Council at a City Council Meeting.

**Correction of Errors or Omissions in Minutes**

18.03 Corrections of clerical errors or omissions in the minutes may be made by the Clerk at their discretion.

## 19. POWERS OF THE COMMITTEE

### When Considering Applications

19.01 Where the Committee is in receipt of an Application, the Committee shall decide whether to grant or reject the Application.

19.02 If the Committee decides to grant the Application, the Committee shall appoint an Auditor to conduct a compliance audit of the Candidate's or Registered Third Party's election campaign finances.

### Consideration of an Auditor's Report

19.03 Where the Committee is in receipt of an Auditor's Report, the Committee shall consider the Report.

19.04 Where an Auditor's Report concludes that the Candidate or Registered Third Party appears to have contravened a provision of the *MEA* relating to election campaign finances, the Committee may commence a legal proceeding against the Candidate or Registered Third Party for the apparent contravention.

## 20. RETENTION OF PROFESSIONAL SERVICES BY THE COMMITTEE

20.01 Where the Committee retains the professional services of an auditor or lawyer, the Committee shall obtain those services in accordance with the City's Purchasing By-law.

## 21. ENACTMENT

21.01 This By-law shall come into force on the date of its enactment.

**READ AND PASSED IN COMMITTEE** this 24th day of January, 2019.

_____Chair

_____Clerk