

# THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

## BY-LAW NO. 18-1415

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### Being a bylaw to appoint a Joint Compliance Audit Committee

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WHEREAS Section 88.37 (1) of the Municipal Elections Act, 1996, as amended requires a council or local board shall establish a Compliance Audit Committee before October 1 of an election year for the purposes of the Act.

AND WHEREAS Section 88.37 (2) of the Municipal Elections Act, 1996, as amended states the committee shall be composed of not fewer than three and not more than seven members and shall not include:

- (a) Employees or officers of the municipality or local board;
- (b) Members of the council or local board;
- (c) Any persons who are candidates in the election for which the committee is established; or
- (d) Any persons who are registered third party advertisers in the municipality in the election for which the committee is established

AND WHEREAS Section 88.37 (3) of the Municipal Elections Act, 1996, as amended states a person who has such qualifications and satisfies such eligibility requirements as may be prescribed is eligible for appointment to the committee.

AND WHEREAS Section 88.37 (4) of the Municipal Elections Act, 1996, as amended states in appointing persons to the committee, the council or local board shall have regard to the prescribed eligibility criteria.

AND WHEREAS the Townships of Armstrong, Brethour, Casey, Chamberlain, Coleman, Evanturel, Gauthier, Harley, Harris, Hilliard, Hudson, James, Kerns, Larder Lake, Latchford, Matachewan, McGarry, Village of Thornloe, Municipality of Charlton and Dack and Temagami, and the Towns of Cobalt, Englehart, Kirkland Lake and Temiskaming Shores deem it expedient to establish a Joint Compliance Audit Committee.

NOW THEREFORE the Council of the Corporation of the Municipality of Temagami hereby enacts as follows:

1. THAT a Committee, to be known as the Joint Compliance Audit Committee, is hereby established to deal with the matters provided for in Section 88.33, 88.34 and 88.35 of the Municipal Elections Act, 1996, as amended.
2. AND THAT the Joint Compliance Audit Committee shall consist of the following individuals representing Expertise for Municipalities (E4m), who shall deal with each compliance audit request in accordance with the Terms of Reference attached hereto as Schedule "A":

Peggy Young-Lovelace  
Theresa Cassan

Chris Wray

3. AND THAT the business of the Joint Compliance Audit Committee be conducted in accordance with the procedures set out in the 2018 Municipal Elections Procedures and the Terms of Reference set out in Schedule “A” attached hereto, which shall form part of this By-law.
4. That the Clerk of the Municipality of Temagami is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the by-law and schedule, after the passage of this by-law, where such modifications or corrections do not alter the intent of the by-law.
5. AND THAT this By-law shall come into force and take effect on the date of passage.
6. AND THAT By-law No. 14-1211 and all other by-laws or resolutions, or parts thereof, contrary hereto or inconsistent herewith, be and the same are hereby repealed. WHEREAS Section 81.1 of the *Municipal Elections Act, 1996* requires municipalities to appoint Compliance Audit Committees to deal with matters regarding election campaign finances before October 1 in an election year.

TAKEN AS READ A FIRST TIME this 27<sup>th</sup> day of September, 2018.

READ A SECOND AND THIRD time and finally passed this 27<sup>th</sup> day of September, 2018.

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Mayor

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Clerk

## **Joint District of Timiskaming 2018 Election Compliance Audit Committee**

### **Terms of Reference**

#### **Name**

The name of the Committee is the "Joint District of Timiskaming 2018 Election Compliance Audit Committee" may consist of the following municipalities:

Township of Armstrong  
Township of Brethour  
Township of Casey  
Township of Chamberlain  
Municipality of Charlton-Dack  
Township of Coleman  
Township of Evanturel  
Township of Harris  
Township of Harley  
Township of Hilliard  
Township of Hudson  
Township of James  
Township of Kerns  
Village of Thornloe  
Town of Englehart  
Town of Cobalt  
Town of Latchford  
Township of Matachewan  
Township of Gauthier  
Town of Kirkland Lake  
Township of McGarry  
Township of Larder Lake  
City of Temiskaming Shores  
Municipality of Temagami

#### **Duration**

The term of office is from December 1, 2018 to November 14, 2022 to deal with applications from the 2018 election and any by-elections during Council's term.

#### **Mandate**

The powers and functions of the Committee are set out in Sections 88.33 to 88.37 of the *Municipal Elections Act, 1996* (Appendix "A"). The Committee will perform the functions relating to the compliance audit application process as outlined in the Act. These functions include:

#### **Candidate Contravention – Application by Elector**

- a. within 30 days receipt of a compliance audit application by an elector, consider the application and decide whether it should be granted or rejected;
- b. give to the Candidate, the Clerk and the Applicant the decision of the Committee to grant or reject the application, and brief written reasons for the decision;
- c. if the application is granted, appoint a licensed auditor to conduct a compliance audit of the Candidate's election campaign finances;

- d. receive the auditor's report from the Clerk;
- e. within 30 days receipt of the auditor's report, consider the report;
- f. if the report concludes that the candidate appears to have contravened a provision of the Act relating to election campaign finances, decide whether to commence legal proceedings against the candidate for the apparent contravention;
- g. after reviewing the report, give to the Candidate, the Clerk and the Applicant the decision of the Committee, and brief written reasons for the decision.

**Candidate Contributor Contravention – Application by Elector**

- a. within 30 days receipt of a report identifying each contributor to a candidate for office on a council who appears to have contravened any of the contribution limits, consider the report and decide whether to commence a legal proceeding against the contributor for an apparent contravention.
- b. after reviewing the report, give to the Contributor and the Clerk the decision of the Committee, and brief written reasons for the decision.

**Registered Third Party Contravention – Application by Elector**

- a. within 30 days receipt of a compliance audit application by an elector, consider the application and decide whether it should be granted or rejected;
- b. give to the Candidate, the Clerk and the Applicant the decision of the Committee to grant or reject the application, and brief written reasons for the decision;
- c. if the application is granted, appoint a licensed auditor to conduct a compliance audit of the Registered Third Party's campaign finances;
- d. receive the auditor's report from the Clerk;
- e. within 30 days receipt of the auditor's report, consider the report;
- f. if the report concludes that the Registered Third Party appears to have contravened a provision of the Act relating to campaign finances, decide whether to commence legal proceedings against the Registered Third Party for the apparent contravention;
- g. after reviewing the report, give to the Registered Third Party, the Clerk and the Applicant the decision of the Committee, and brief written reasons for the decision.

**Registered Third Party Contributor Contravention – Application by Elector**

- a. within 30 days receipt of the report, consider the report;
- b. if the report concludes that the Contributor appears to have contravened a provision of the Act relating to campaign finances, decide whether to commence legal proceedings against the Contributor for the apparent contravention;
- c. after reviewing the report, give to the Contributor and the Clerk the decision of the Committee, and brief written reasons for the decision.

**Application by the Clerk**

- a. Statutory obligations now obligate the Clerk to review contributions made to both candidates, by candidate contributors and registered third parties. Generally, upon review of the submitted financial statements, if the Clerk finds that the contribution limits were exceeded, the Clerk must report this exceedance to the Compliance Audit Committee via a written report.
- b. The reports noted above are mandatory on the Clerk and are not triggered by the request of an elector.
- c. Within 30 days of receiving a report from the Clerk, a Compliance Audit Committee must consider the report of the Clerk and decide if the Committee will commence a meeting to consider the content of the report(s).
- d. All Clerks should be guided by the provisions of the Municipal Elections Act, more precisely Section 88.34 (1) to 88.34 (7) and Section 88.36 (1) to 88.36 (4).

**Auditor Selection**

If the committee decides to grant the application, it shall appoint an auditor licensed under the *Public Accounting Act, 2004* to conduct a compliance audit of the Candidate's election campaign finances.

### **Membership**

The Committee shall be composed of at least three (3) voting members that would assume all the rights and privileges of a voting member if called upon. Alternate members shall be ranked and will be called upon to replace a voting member that has resigned from the Committee.

Membership will be drawn from the following groups who has such qualifications and satisfies the eligibility requirements:

- a. accounting and audit - accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates and registered third parties;
- b. legal;
- c. professionals who in the course of their duties are required to adhere to codes or standards of their profession which may be enforced by disciplinary tribunals; and/or
- d. other individuals with knowledge of the campaign financing rules of the *Municipal Elections Act, 1996*.

Municipal employees or officers of the municipality, members of Council or local board; any Candidates or any persons who are Registered Third Parties in the 2018 municipal election or in any by-election during the term of Council for any member municipality are ineligible to be appointed as a member of the Committee pursuant to subsection 88.37 (2) of the of the *Municipal Elections Act, 1996*.

Members may be required to participate in an orientation session as a condition of appointment.

### **Membership Selection**

Members should be solicited having the qualifications as those individuals as set out under section 4 of the Terms of Reference.

Recommended candidates will be submitted to the Council of each member municipality for consideration in a by-law of appointment.

- a. Members will be selected on the basis of the following:
- b. demonstrated knowledge and understanding of municipal election financing rules;
- c. proven analytical and decision-making skills;
- d. experience working on a committee, task force or similar setting;
- e. availability and willingness to attend meetings; and
- f. excellent oral and written communication skills.

Any members appointed must also agree in writing they will not be a candidate or an individual who is a Registered Third Party in the current municipal election or in any by-election during the term of Council for any member municipality. Failure to adhere to this requirement will result in the individual being removed from the Committee.

### **Conflict of Interest**

The principles of the *Municipal Conflict of Interest Act*, apply to this Committee. Failure to adhere to this requirement will result in the individual being removed from the Committee.

To avoid a conflict, any person appointed to the Committee must agree in writing not to prepare or audit the election financial statements of any candidate or registered third party for any of the member municipalities in the current municipal election. Failure to adhere to this requirement will result in the individual being removed from the Committee.

### **Chair**

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

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

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

### **Staffing and Funding**

The Clerk from the applicable member municipality shall act as Secretary to the Committee.

The member municipality requiring the services of the Committee shall be responsible for all associated expenses, including the auditor's costs.

Committee Member Remuneration shall be set at \$150 per meeting, mileage included. Costs with respect to legal fees (if necessary) and the engagement of an auditor would be the responsibility of the member municipality.

### **Meetings**

Meetings of the Committee may be conducted electronically but shall be open to the public. The Clerk of the member municipality shall determine an adequate location for the public to physically attend or participate electronically and with the ability to have the Compliance Audit Committee members participate electronically.

#### *Timing of Meetings*

Meetings shall be called by the Clerk of the member municipality when required. The date and time of the meeting will be determined by the Clerk and communicated directly to the Committee members. Subsequent meetings will be held at the call of the Chair in consultation with the Clerk.

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

#### *Meeting Location*

The Committee shall meet at the location determined in consultation with the member municipality.

#### *Electronic Meetings*

A meeting of the Compliance Audit Committee may be conducted by means of visual or audio or audio electronic or other communications equipment, provided that the public is able to participate and the chairperson is in attendance at the meeting.

Committee members who are participating by electronic means in a meeting are deemed to be present.

In the case of an interruption in the communication link to the member(s) participating electronically, the Committee will recess to a maximum of 15 minutes until it is determined

whether or not the link can be re-established. If communications are not re-established, the meeting will be dissolved and rescheduled and the Clerk shall note the same in the minutes.

#### *Meeting Notices, Agendas & Minutes*

The agenda shall constitute notice. The Clerk of the member municipality requiring the services of the Committee shall cause notice of the meetings to be provided:

- to members of the Committee, Candidate, and the Public for a meeting regarding an application by an elector;
- to members of the Committee, Contributor, Candidate and the Public for a meeting regarding a Candidate Contributor Contravention report;
- to members of the Committee, Contributor, Registered Third Party and the public for a meeting regarding a Registered Third Party Contributor Contravention.

A minimum of two (2) business days prior to the date of each meeting, not including weekends or holidays. The agendas and minutes of meetings shall be posted on the member municipality's website, where available.

Minutes of each meeting shall outline the general deliberations and specific actions and recommendations that result. The applicant and the candidate shall be permitted to make presentations as part of the process.

#### *Agenda Format*

1. Call to Order
2. Disclosure of Pecuniary Interest and General Nature Thereof
3. Consideration of Compliance Audit Application, Clerk's Report *or* Auditor's Report
4. Adjournment

#### *Quorum*

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

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

#### *Meeting Attendance*

Any member of the Committee, who misses three (3) consecutive meetings, without being excused by the Committee, may be removed from the Committee. The Committee must make recommendations, by a report to Council for the removal of any member.

#### *Motions & Voting*

A motion shall only need to be formally moved before the Chair can put the question or a motion can be recorded in the minutes.

A motion shall be reduced to writing and shall be signed by the Chair and Secretary.

Every Member present shall be deemed to vote against the motion if they decline or abstain from voting, unless disqualified from voting by reason of a declared pecuniary interest.

In the case of a tie vote, the motion shall be considered to have been lost.

The manner of determining the vote on a motion shall be by show of hands.

The Chair shall announce the result of every vote.

#### **Administrative Practices and Procedures**

The Terms of Reference constitute the Administrative Practices and Procedures of the Committee. Any responsibilities not clearly identified within these Terms of Reference shall be in accordance with Section 88.33 to 88.37 of the *Municipal Elections Act, 1996*.

The Clerk at any time has the right to develop additional administrative practices and procedures.