



## Council Report

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**Report Number:** CLK2022-008

**Meeting Date:** July 19, 2022

**Title:** 2022 Municipal Election – Compliance Audit Committee

**Description:** Insert any Other Applicable Description

**Author and Title:** Sarah O'Connell, Deputy Clerk

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### Recommendation(s):

**That** Report CLK2022-008, **2022 Municipal Election – Compliance Audit Committee**, be received;

**That** the Terms of Reference for the Compliance Audit Committee, as attached as Appendix A to Report CLK2022-008, be approved;

**That** the City Clerk be authorized to advertise to fill the positions on the Compliance Audit Committee for the 2022 Municipal Election, in accordance with the Council Committee, Board and Task Force Policy; and

**That** the Interview Team for the Compliance Audit Committee be composed of the City Clerk and the Director of Corporate Services;

**That** the City Clerk report back to Council, pursuant to the Council Committee, Board and Task Force Policy, on the recommended membership for the Compliance Audit Committee; and

**That** a by-law be brought forward prior to October 1<sup>st</sup>, 2022 to appoint the members of the Compliance Audit Committee and to adopt the Terms of Reference for the Compliance Audit Committee for the 2022 to 2026 calendar years, both inclusive.

**Department Head:** \_\_\_\_\_

**Financial/Legal/HR/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

## **Background:**

Under the Municipal Election Act (MEA) “an elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate’s election campaign finances”.

Council approved, the formation of, and appointments to, a compliance audit committee in 2006, 2010, 2014 and 2018 to respond to any requests relating to those respective municipal elections.

Third party advertisers are subject to compliance audits.

The excerpt of the Municipal Elections Act, 1996 that pertains to the Compliance Audit Committee follows below:

### **Compliance Audit of Candidates’ Campaign Finances - Application by Elector**

**88.33** (1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate’s election campaign finances, even if the candidate has not filed a financial statement under section 88.25. 2016, c. 15, s. 63.

### **Compliance Audit Committee**

**88.37** (1) A council or local board shall establish a compliance audit committee before October 1 of an election year for the purposes of this Act. 2016, c. 15, s. 66.

### **Composition**

(2) 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 parties in the municipality in the election for which the committee is established. 2016, c. 15, s. 66.

### **Eligibility for appointment**

(3) A person who has such qualifications and satisfies such eligibility requirements as may be prescribed is eligible for appointment to the committee. 2016, c. 15, s. 66.

## **Same**

(4) In appointing persons to the committee, the council or local board shall have regard to the prescribed eligibility criteria. 2016, c. 15, s. 66.

## **Term of office**

(5) The term of office of the committee is the same as the term of office of the council or local board that takes office following the next regular election, and the term of office of the members of the committee is the same as the term of the committee to which they have been appointed. 2016, c. 15, s. 66.

## **Compliance audit of registered third parties - Application by elector**

**88.35** (1) An elector who is entitled to vote in an election in a municipality and believes on reasonable grounds that a registered third party who is registered in relation to the election in the municipality has contravened a provision of this Act relating to campaign finances may apply for a compliance audit of the campaign finances of the registered third party in relation to third party advertisements, even if the registered third party has not filed a financial statement under section 88.29. 2016, c. 15, s. 65.

The current Compliance Audit Committee's term has not concluded however, at present only two standing members remain, Greer Thornbury and Tony Sutcliffe. The Act requires a minimum of three members. It is intended that the two members will reapply for the next term of Council.

## **Rationale:**

The MEA requires a council or local board, before October 1st of an election year, to establish a committee for the purpose of implementing those sections of the MEA that relate to election campaign compliance audits.

This report addresses the legislative requirements for election campaign compliance audit purposes for the 2022 municipal election.

The compliance audit committee is given the authority under the MEA to determine, first, if a compliance audit is required. Once a decision to proceed is made, the committee would be authorized to appoint an auditor, to possibly commence legal proceedings if there is an apparent contravention of the MEA and to seek a recovery of costs for the proceedings. The costs associated with this process are the responsibility of the municipality unless ordered otherwise by the courts.

It is important that the committee members:

- be familiar with financial statements,
- be familiar with the municipal election process

- not be affiliated with any candidate and are therefore free from political influence
- be impartial.

In 2018, the City received a request from the Trillium Lakelands District School Board (TLDSB) to contract with the municipality to have the City Compliance Audit Committee process any compliance audit requests for public school board trustees. The City has provided coverage to the TLDSB in the last 4 elections. The School Board would cover the expenses for School Board audit purposes.

### **Other Alternatives Considered:**

There are no other alternatives to be considered as the Compliance Audit Committee is required under the provisions of the Municipal Elections Act

### **Alignment to Strategic Priorities**

The Strategic Plan identifies “Good Government” as a key strategic priority. Section 2 of this priority states “Increase efficiency and effectiveness of service delivery... Streamline by-laws, policies and processes”. Approving the Terms of Reference for the Compliance Audit Committee provides greater clarity and understanding to residents, candidates and third party advertisers streamlines the perceived gaps in the existing Election Sign By-law.

### **Financial/Operation Impacts:**

If no application for a compliance audit are received, there would be no cost. However, should there be an application, the funds would be expended through the election budget and would vary depending on the work required by the committee and whether the application proceeded through to the courts.

### **Consultations:**

City Clerk  
Director of Corporate Services

## **Attachments:**

Appendix A – Terms of Reference for the Compliance Audit Committee



2022-2026 Municipal  
Election Compliance A

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**Department Head: Cathie Ritchie, City Clerk**