



ELECTION COMPLIANCE AUDIT COMMITTEE

PROCEDURE BY-LAW NO. 1

BY-LAW No. 1

**A BY-LAW OF THE CITY OF GREATER SUDBURY
ELECTION COMPLIANCE AUDIT COMMITTEE
TO ESTABLISH PROCEDURAL RULES FOR THE COMMITTEE**

WHEREAS the City of Greater Sudbury is required to establish a compliance audit committee pursuant to section 81.1 of the *Municipal Elections Act*, 1996, S.O. 1996, c. 32, Sched.;

AND WHEREAS the Council of the City of Greater Sudbury passed Resolution 2010-197 and By-law 2010-101 on May 26, 2010 establishing an Election Compliance Audit Committee and adopted the Terms of Reference for the Committee;

AND WHEREAS the Council of the City of Greater Sudbury passed Resolution 2010-376 and By-law 2010-209 dated September 29th, 2010 appointing 3 persons as members of the Election Compliance Audit Committee and 1 person as an alternate member of the Election Compliance Audit Committee;

AND WHEREAS section 238 of the *Municipal Act, 2001*, requires every local board 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 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:

“Alternate Member” shall mean the alternate member appointed to the Committee by City Resolution 2010-376 and By-law 2010-209;

“Applicant” shall mean a person who submitted an Application;

“Application” shall mean an application received by the Clerk pursuant to section 81 of the *Municipal Elections Act, 1996*;

“Auditor” shall mean an auditor appointed by the Committee pursuant to section 81 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 81 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;

“City Solicitor” shall mean the City Solicitor for the City of Greater Sudbury;

“Clerk” shall mean the City Clerk or her delegate;

“Committee” shall mean the Election Compliance Audit Committee of the City of Greater Sudbury appointed pursuant to section 81.1 of the *Municipal Elections Act, 1996*;

“Pecuniary Conflict of Interest” shall mean a conflict of interest declared in accordance with the *Municipal Conflict of Interest Act*;

“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; and

“Member” shall mean the Members of the Committee appointed by Council for the term of the Committee, and shall not include the Alternate Member until such time as this by-law requires the Alternate Member to become a Member.

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.

4. CHAIR & VICE CHAIR

Role of the Chair

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

4.02 The Chair shall enforce the observance of order and decorum amongst the Members, Alternate Member 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 RESPONSES

Applicant and Candidate Shall Provide Form

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 his belief that a Candidate has contravened a provision of the *MEA* relating to election campaign finances.

6.03 The Application form and written submissions shall be submitted to the Clerk within the timelines required by the *MEA*.

6.04 Where a Candidate receives notice that he is the subject of an Application, the Candidate may respond to the Application in writing.

6.05 A Candidate shall provide a Candidate Response form to accompany his written submissions on an Application.

Form to be Determined by Clerk

6.06 Application and candidate response forms shall be in a form to be determined by the Clerk.

6.07 Where the Candidate 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.

6.08 Where the Clerk receives a written response to an Application from a Candidate, 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 days prior to the meeting at which the Application will be considered.

Limit of Pages on Written Submissions

6.09 Written submissions in support of an Application or a Candidate'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 required form.

7. FILING OF EXHIBITS

7.01 Where an Applicant or Candidate will refer to an Exhibit in his address to the Committee, Exhibits shall be submitted with the written submissions and required form.

7.02 Where the Exhibit was not provided with the written submissions, 10 copies of the Exhibit shall be submitted to the Clerk 2 business days prior to the Meeting where the address shall occur.

7.03 Exhibits shall not be included in the 10 page limit provided for in Article 6.09.

8. PUBLIC REVIEW OF EXHIBITS AND SUBMISSIONS

8.01 Applications, Exhibits, copies of Exhibits and written submissions by the Applicant and Candidate shall be available to the public for review by request to the Clerk.

9. REJECTION OF APPLICATIONS BY THE CLERK

9.01 Where an Application is submitted before or after the 90 days provided in accordance with 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 reasons setting out the reasons for the elector's belief that a Candidate has contravened the *MEA* relating to election campaign finances, 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 first make mention of the date, time, 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 of Meeting

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

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

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

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

Who Receives Notice

10.08 The Clerk shall give notice to:

- (a) All Members and the Alternate Member;
- (b) Where an Application or Application-related matter will be considered to the Applicant;
- (c) Where an Application or Application-related matter will be considered to the Candidate who is the subject of the Application;

- (d) Members of Council;
- (e) Members of the Senior Management Team;
- (f) The City Solicitor;
- (g) The Auditor when the Auditor's Report is being considered; and
- (h) Such other persons as the Chair of the meeting in question or the Clerk deems necessary.

Notice to the Applicant and Candidate

10.9 At a Meeting where an Application or an Application-related matter is to be considered, the Clerk shall give notice in writing to the Applicant and Candidate of the fact that if either party fails to attend the Meeting, the Committee may proceed in the party's absence and the party shall not be entitled to further notice in relation to the Meeting.

Notice of Meeting where Auditor's Report is Submitted

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

Distribution of the Meeting Notice

10.11 The Clerk may send the notice electronically or by hard copy so as to be received by Members no later than three business days prior to the meeting date.

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

Distribution by More than One Means

10.13 Nothing herein precludes the Clerk from distributing an agenda by more than one means.

Notice Not Received - Validity of Meeting

10.14 Failure of any person outlined herein to receive notice of a meeting shall not affect the validity of the Meeting, nor any decisions, recommendations, or actions resulting therefrom.

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, to the Applicant and the Candidate at the mailing addresses filed with the Clerk.

11.02 Notice of a decision shall be issued to the Candidate and Applicant within 3 days of the decision.

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

12. MEETINGS

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

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

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

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

12.06 Meetings shall be conducted in accordance with section 239 of the *Municipal Act, 2001*, attached as Appendix A to this by-law.

13. AGENDA

Preparation of Agenda

13.01 The Clerk shall provide an agenda to all persons in accordance with Article 10 of this by-law.

Declaration of Conflict of Interest

13.02 The first matter of business on each agenda shall be the declaration of any Pecuniary Conflict of Interest 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 (a) 3 Members are not present within 30 minutes after the time fixed for Meeting,
- a (b) 3 Members are not present after the resumption of a Meeting after recess, or
- (c) 3 Members are not in attendance at all times during a Meeting, or
- (d) A Member is prevented from voting and participating due to a Pecuniary Conflict of Interest,

and the Alternate Member is not present or readily available to become a Member.

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.

14.04 Where Article 14.02(a), (b), (c) or (d) have occurred and the Alternate Member is present and is without a Pecuniary Conflict of Interest, he shall be entered into the minutes, become a Member and be counted to determine quorum.

14.05 Where a Member has given notice of an absence to the Clerk prior to a meeting, Article 14.04 shall apply notwithstanding Article 14.02.

14.06 In the event that an absent Member arrives after the Alternate Member is entered into the minutes, the Alternate Member shall cease to be a Member.

14.07 Notwithstanding Article 14.06, where a Member is in attendance but has declared a Pecuniary Conflict of Interest, the Alternate Member shall remain a Member and the Member shall not resume his seat on the Committee until such time as the agenda item for which he has a Pecuniary Conflict of Interest is disposed of pursuant to Article 14.09.

14.08 Despite an absent or unavailable Member subsequently becoming available, once an Alternate Member has become a Member and has begun hearing an address from an Applicant, the Alternate Member remains seized of the matter until such time as the Committee has disposed of the Application.

14.09 For the purposes of Articles 14.07 and 14.08, a matter is disposed of by the Committee after the latest of:

- a) The making of the decision to accept or reject an Application;
- b) The appointment of an Auditor;

- c) The consideration of an Auditor's Report;
- d) The finding as to whether there were reasonable grounds for an Application; or
- e) The making of the decision of whether to commence legal proceedings against a Candidate.

15. RULES OF DEBATE

Order of Speaking for Members

15.01 When two or more Members wish to speak, the Chair shall designate the Member who first requested to speak as the Member who speaks first.

Questions by Members

15.02 A Member may ask a question only:

- (a) of a Member who has already spoken on the matter under discussion;
- (b) of the Chair;
- (c) of a City official, as appropriate; and
- (d) of any other person addressing the Committee pursuant to this by-law.

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

Announcement of Agenda Item to be Considered

15.04 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

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

15.06 After the opening statement and prior to consideration of an Application, the Chair shall request that the Applicant and Candidate and their agents:

- (a) identify themselves to the Committee and Clerk; and
- (b) provide their names and mailing addresses in writing to the Clerk during the Meeting.

15.07 The Chair shall entertain any statements from Members after reading the opening statement and recording of the Applicant and Candidate. Once an Applicant has begun an address to the Committee, no motion, including a motion to refer or to defer, shall be read or voted upon until the Applicant, Candidate or their agents have had the opportunity to address the Committee.

Addressing the Committee

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

15.09 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.

15.10 When an Application is before the Committee for consideration, the Applicant or his agent may address the Committee with respect to his Application and the written submissions of the Candidate.

15.11 When an Application is before the Committee for consideration, the Candidate or his agent may address the Committee in response to the written or oral submissions of the Applicant.

15.12 When an Application is before the Committee for consideration, if both the Applicant and the Candidate 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 the Candidate's agent.

15.13 Addresses shall be no longer than 10 minutes.

Questions of the Applicant or Candidate

15.14 The Members may, through the Chair, ask questions of the Applicant or Candidate or their agents.

Viewing of Documents submitted by Applicant

15.15 The Candidate shall be permitted to view any documents or Exhibits submitted to the Committee by the Applicant or his 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 and shall provide Minutes to all persons to whom Notice of the Meeting was given, as soon as the minutes are available.

Adoption of Minutes

18.02 Minutes of a Meeting shall be adopted by the Committee at the subsequent Meeting.

Correction of Errors or Omissions in Minutes

18.03 In adopting the minutes of a Meeting, corrections of clerical errors or omissions may be made by Members without debate.

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 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 does not appear to have contravened a provision of the *MEA* relating to election campaign

finances, the Committee may make a finding as to whether there were reasonable grounds for the Application in accordance with section 81(15) of the *MEA*.

19.05 Where an Auditor's Report concludes that the Candidate appears to have contravened a provision of the *MEA* relating to election campaign finances, a legal proceeding may be commenced against the Candidate for the apparent contravention in accordance with the *MEA*.

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 services in accordance with the City's Purchasing By-law.

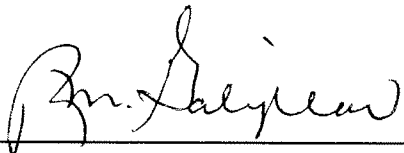
21. SHORT TITLE

21.01 This By-law shall be called the "Committee Procedure By-law".

22. ENACTMENT

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

READ AND PASSED IN COMMITTEE this 26th day of January, 2011.


_____ Chair


_____ Clerk

APPENDIX A

Municipal Act, 2001, section 239

Meetings open to public

239. (1) Except as provided in this section, all meetings shall be open to the public. 2001, c. 25, s. 239 (1).

Exceptions

(2) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

- (a) the security of the property of the municipality or local board;
- (b) personal matters about an identifiable individual, including municipal or local board employees;
- (c) a proposed or pending acquisition or disposition of land by the municipality or local board;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act. 2001, c. 25, s. 239 (2).

Other criteria

(3) A meeting shall be closed to the public if the subject matter relates to the consideration of a request under the *Municipal Freedom of Information and Protection of Privacy Act* if the council, board, commission or other body is the head of an institution for the purposes of that Act. 2001, c. 25, s. 239 (3).

Educational or training sessions

(3.1) A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:

1. The meeting is held for the purpose of educating or training the members.
2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee. 2006, c. 32, Sched. A, s. 103 (1).

Resolution

(4) Before holding a meeting or part of a meeting that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution,

- (a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or
- (b) in the case of a meeting under subsection (3.1), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection. 2001, c. 25, s. 239 (4); 2006, c. 32, Sched. A, s. 103 (2).

Open meeting

(5) Subject to subsection (6), a meeting shall not be closed to the public during the taking of a vote. 2001, c. 25, s. 239 (5).

Exception

(6) Despite section 244, a meeting may be closed to the public during a vote if,

- (a) subsection (2) or (3) permits or requires the meeting to be closed to the public; and
- (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board. 2001, c. 25, s. 239 (6).

Record of meeting

(7) A municipality or local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not. 2006, c. 32, Sched. A, s. 103 (3).

Same

(8) The record required by subsection (7) shall be made by,

- (a) the clerk, in the case of a meeting of council; or
- (b) the appropriate officer, in the case of a meeting of a local board or committee. 2006, c. 32, Sched. A, s. 103 (3).

Record may be disclosed

(9) Clause 6 (1) (b) of the *Municipal Freedom of Information and Protection of Privacy Act* does not apply to a record of a meeting closed under subsection (3.1). 2006, c. 32, Sched. A, s. 103 (3).