

# TOWN OF AJAX REPORT



**REPORT TO:** General Government Committee

**SUBMITTED BY:** Nicole Wellsbury  
Director, Legislative & Information Services/Clerk

**SUBJECT:** Establishment of 2018-2022 Ajax Compliance Audit Committee

**WARD(S):** N/A

**DATE OF MEETING:** May 8, 2017

**REFERENCE:** N/A

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## RECOMMENDATION:

1. That a bylaw to establish a Compliance Audit Committee for the 2018 Municipal Election in Ajax (ATT-2) be included on the May 15, 2017 Council agenda for approval; and,
2. That the Clerk be directed to commence the recruitment process for the 2018-2022 Municipal Election Compliance Audit Committee.

## BACKGROUND:

Under the *Municipal Elections Act* ("the MEA"), Municipal Councils are required to establish a Compliance Audit Committee by October 1 of an Election year. Compliance Audit Committees were introduced into municipal elections more than a decade ago; Ajax's first Compliance Audit Committee was established in 2006, before they were made mandatory under the *MEA*. Since 2006, there have been no applications for a compliance audit in Ajax; however, there have been significant and lengthy legal challenges in other municipalities.

## DISCUSSION:

In the past, the Compliance Audit Committee's mandate was to consider applications for compliance audits of a candidate's or ballot question registrant's campaign finances. Due to recent amendments to the *MEA*, a Compliance Audit Committee now has three key responsibilities:

1. Considering applications for a compliance audit of a *candidate's* election campaign finances;
2. Considering applications for a compliance audit of a *third party advertiser's* campaign finances;

3. To consider a report from the Clerk regarding suspected instances of over-contributions by campaign contributors.

In respect to Item 3, at the conclusion of the financial reporting period, the Clerk is now required to prepare a report to the Compliance Audit Committee identifying any campaign contributors that appear to have exceeded the contribution limits specified in the *MEA*. The Compliance Audit Committee will be responsible for determining whether to commence legal proceedings against any contributors found to be in violation of the *Act*.

Pending Council approval, the Clerk will undertake a targeted recruitment process in an effort to find three individuals well suited for the Committee. The eligibility criteria for members is established in the attached Terms of Reference; generally, preference is given to candidates that have applicable experience in accounting and audit, law, law enforcement and academics from related fields.

The existing 2014-2018 Compliance Audit Committee is currently comprised of three highly qualified Ajax residents with a breadth of professional experience in the relevant fields. Only two of the three members have indicated an interest and availability to serve in this capacity for the next term of Council, making a recruitment process necessary. Staff anticipate that recruitment and selection will occur between the Fall of 2017 and early 2018.

The Clerk of the municipality is required to establish administrative practices and procedures for the Compliance Audit Committee, which are currently being developed in accordance with the Committee's new responsibilities under the revised *MEA*.

#### **FINANCIAL IMPLICATIONS:**

In the past, Committee members have been paid a \$200 honorarium for the term of their appointment. In addition, members are entitled to payment of \$100 for each Committee meeting lasting four hours or less, and \$200 for each Committee meeting lasting greater than four hours. While these figures have not be adjusted in more than a decade, they remain generally in line with comparator municipalities in Durham Region, and have not appeared to pose a barrier to attracting qualified applicants.

While the Town's Compliance Audit Committee has not had reason to meet in the past, its newly expanded mandate and responsibilities will likely require it to convene at least two times in 2019; costs are therefore expected to be modestly higher than in past elections, in the range of \$1600-\$2000 if there is no complaint and audit activity. These costs will be budgeted for within the Elections Operating Budget.

#### **COMMUNICATION ISSUES:**

This public service opportunity will be advertised through the town's standard communication channels this Fall.

At the appropriate time, Election Staff will ensure that registered candidates and campaign contributors are made aware of the compliance audit committee's new and expanded role, and the consequences of filing an incorrect or falsified financial statement, or over-contributing to a campaign.

**CONCLUSION:**

Staff are hopeful that candidates and contributors will comply with the requirements of the *MEA*; nonetheless, it is important that the Town retain qualified individuals with the competency and experience necessary to consider an application should one come forward with respect to the 2018 Election or a subsequent by-election. Following the recruitment process, staff will present the recommended candidates to Council for formal appointment.

**ATTACHMENTS:**

- ATT-1: Draft By-law XX-2017 – to establish the 2018 Municipal Election Compliance Audit Committee
- ATT-2: Compliance Audit Committee Terms of Reference

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Nicole Wellsbury – Director, Legislative & Information Services/Clerk

**THE CORPORATION OF THE TOWN OF AJAX**

**BY-LAW NUMBER XX - 2017**

Being a By-law to establish a 2018-2022 Election Compliance Audit Committee

WHEREAS section 88.37(1) of the *Municipal Elections Act, 2006*, as amended, requires Council to establish a Compliance Audit Committee to address applications requesting a review of a candidate's campaign finances;

NOW THEREFORE the Council of the Corporation of the Town of Ajax enacts as follows:

1. That a 2018-2022 Election Compliance Audit Committee be established under the provisions of the *Municipal Elections Act, 1996*, as amended;
2. That the attached Terms of Reference shall guide the structure and responsibilities of the 2018-2022 Election Compliance Audit Committee; and
3. That, in accordance with the *Municipal Elections Act, 1996*, as amended, the 2018-2022 Election Compliance Audit Committee shall serve a term that is concurrent with the term of office of the Council elected in 2018, and shall therefore serve in the instance of any by-election that may take place during that time.

READ a first and second time this  
15<sup>th</sup> day of May, 2017.

READ a third time and passed this  
15<sup>th</sup> day of May, 2017.

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Mayor

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D - Clerk

**Appendix A to By-law xx-2017**  
**2018-2022 COMPLIANCE AUDIT COMMITTEE FOR THE TOWN OF AJAX**

*Terms of Reference*

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**1. Mandate**

The 2018-2022 Municipal Election Compliance Audit Committee (the “Committee”) has the full authority provided by Sections 88.33 to 88.37 of the *Municipal Elections Act, 1996*, as amended (the “*MEA*”), to address applications requesting an audit of a candidate’s or third party advertiser’s election campaign finances and to consider reports from the Clerk citing apparent instances of over-contribution to municipal campaigns. Per the *MEA*, this authority includes but is not limited to the following:

- review applications for a compliance audit and grant or reject audit requests within thirty (30) days of receipt
- where an audit is granted, appoint an auditor and review the audit report
- decide whether legal proceedings shall be commenced
  - if auditor’s report indicates that there was no contravention, determine whether there were reasonable grounds for the application
- within 30 days after receiving report(s) from the Clerk under Sections 88.34 and 88.35 (dealing with apparent campaign contributions in excess of permitted limits), the compliance audit committee shall meet to consider the report(s) and decide whether to commence a legal proceeding against a contributor for an apparent contravention, if applicable.

**2. Functional Relationships**

Where the Committee needs to provide advice or information to Town Council, it shall do so through the General Government Committee. The Town Clerk or designate will be the main point of contact for members of the Committee, will act as the main contact between the Committee and Council, and will report on Committee activity as required to the appropriate individuals, Council and the public. Notwithstanding these relationships, the Committee has full authority to render decisions properly within its mandate independently and without requirement for Council approval.

**3. Committee Membership**

The Committee shall consist of three (3) Members appointed by the Council of the Town of Ajax, and one (1) alternate member. The Town Clerk will recruit and recommend three (3) qualified individuals and one (1) alternate individual for appointment to the Committee. The alternate will be called upon only in the event that one of the three main members is unable to serve and/or attend meetings during the period of appointment.

Committee Members must have the ability to understand and apply the election campaign finance provisions of the *MEA* and should be considered impartial with respect to their ability to fulfill their responsibilities. Preference shall be given to candidates that have applicable experience in accounting and audit, law, law enforcement and academics from related fields.

Under the *MEA*, members of Council, election candidates and registered third party advertisers, as well as Town staff are prohibited from being appointed to the Committee.

In addition, a Committee Member may not be a provider of any election-related services to a

**Appendix A to By-law xx-2017**  
**2018-2022 COMPLIANCE AUDIT COMMITTEE FOR THE TOWN OF AJAX**

*Terms of Reference*

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registered candidate or third party advertiser in the 2018 Ajax municipal election or any subsequent by-election including but not limited to accounting, legal, auditing, marketing or campaign services.

Remuneration to appointed members will be as follows:

- \$200 following appointment as a retainer, and for ongoing review of background material
- \$100 for each Committee meeting lasting four hours or less
- \$200 for each Committee meeting lasting greater than four hours

**4. Term**

The 2018-2022 Election Compliance Audit Committee shall serve a term that is concurrent with the term of office of the Council elected in 2018, and shall therefore serve in the instance of any by-election that may take place during that time.

**5. Chair**

A Chair will be determined by way of majority vote at the Committee's first meeting.

**6. Meetings**

A meeting of the Committee shall be held within 30 days of the Committee receiving a report from the Clerk under Sections 88.34 and 88.35 of the *MEA*, in order to consider the report which will cite apparent instances of over-contribution to municipal campaigns.

Additional meetings may be called in the event that an application for a compliance audit has been received. The date and time of the meeting will be determined by the Town Clerk and communicated directly to the Committee members. All time frames outlined in the *MEA* and regulations will be adhered to. Committee activity will be determined primarily by the number and complexity of applications for compliance audits that may be received, and the findings of the Clerk's report on over-contributions. The frequency and duration of Committee meetings will be determined by the Committee in consultation with the Town Clerk.

Administrative support including the preparation/distribution of an agenda shall be provided by the Clerk or a designate. Minutes of each meeting shall outline the general deliberations and specific actions and recommendations that result.

Meetings shall be held in accordance with the approved *Administrative Practices and Procedures for the Ajax Compliance Audit Committee*, and the open meeting provisions in the *Municipal Act*, 2001. Notices, agendas and minutes will be published on the Town website and made available in alternate formats upon request.

**7. Costs**

The Town of Ajax is responsible for the following costs:

- General costs associated with the Committee's operations and activities;
- The cost of the Auditor for any audit that takes place;
- The cost of external legal counsel for the Committee