

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW 2018 – 70

A By-law to establish and appoint members to a Joint Compliance Audit Committee for the 2018 – 2022 term.

WHEREAS Sections 88.33 (1) and 88.35(1) of the *Municipal Election Act*, 1996, as amended, (the “Act”) provides that an elector who is entitled to vote in an election and believes on reasonable grounds that a candidate or a registered third party has contravened a provision of the Act relating to election campaign finances may apply for a compliance audit of the candidate’s election campaign finances; and

WHEREAS subsection 88.37 (1) of the *Act* provides that a council or local board shall, prior to October 1st of an election year, establish a Compliance Audit Committee for the purposes of ensuring compliance by candidates and registered third party(ies) with sections 88.33 to 88.36 of the *Municipal Elections Act*; and

WHEREAS subsection 88.37 (2) of the *Act* provides that the Committee shall be composed of not fewer than three (3) and not more than seven (7) 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; and

WHEREAS no provision in the *Act* precludes municipalities from sharing a compliance audit committee; and

WHEREAS on May 19, 2010 the Council of the Township of Essa endorsed participating with other interested municipalities in South Simcoe for the purposes of establishing a Joint Compliance Audit Committee; and

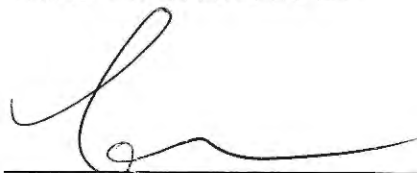
WHEREAS the Town of Bradford West Gwillimbury, the Town of Innisfil, the Town of New Tecumseth, the Township of Essa and the Township of Adjala-Tosoronto expressed interest in forming a Joint Compliance Audit Committee, and deem it expedient to establish such Committee.

NOW THEREFORE BE IT RESOLVED THAT Council of the Corporation of the Township of Essa hereby enacts as follows:

1. That a Joint Compliance Audit Committee (2018-2022) made up from members of the Town of Bradford West Gwillimbury, Town of Innisfil, Town of New Tecumseth, Township of Adjala-Tosorontio, and the Township of Essa, be and is hereby established.
2. That the members appointed to the Joint Compliance Audit Committee shall be those members indicated on Schedule “A” attached hereto and forming part of this By-law
3. That should any of the members of the Committee referred to in Section 2 resign or otherwise be unable to perform their duties during their term of appointment, the Clerk of the municipality shall commence a recruitment process in accordance with the Terms of Reference without the necessity of obtaining approval to conduct the recruitment. The appointment of any replacement members, if necessary, shall be done by by-law.

4. That the Joint Compliance Audit Committee shall be guided by the Terms of Reference, and the business of the Joint Compliance Audit Committee shall be conducted in accordance with the Terms of Reference set out in Schedule "B" attached hereto which shall form part of this by-law.
5. This By-Law shall come into force and take effect on the date it is finally passed.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED on this the 5th day of September, 2018.



Terry Dowdall, Mayor



Lisa Lehr, Clerk

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BY-LAW 2018 – 70

Schedule “A”

Joint Compliance Audit Committee Appointed Members

Municipality Representative	Name of Committee Member
Town of New Tecumseth	Jerry Switzer
Town of Innisfil	Heather Sarnecki
Town of Bradford West Gwillimbury	Bob Adam
Township of Adjala-Tosorontio	Patricia Middlebrook
Township of Essa	Lynn Worthington

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BY-LAW 2018 – 70

Schedule “B”

2018-2022 South Simcoe JCAC Terms of Reference

1. Authority

1.1 Section 88.37(1) of the *Municipal Elections Act, 1996* (“Act”) requires a council, before October 1st of an election year, to establish a compliance audit committee for the purposes of Section 88.33 to 88.36 of the Act relative to a possible contravention of the election campaign finance rules.

2. Objectives

2.1 To establish a Joint Compliance Audit Committee and process with the following potential participants (referred to as the “Joint Area”):

“Joint Area Participants”

Town of New Tecumseth

Town of Innisfil

Town of Bradford West Gwillimbury

Township of Essa

Township of Adjala-Tosorontio

Each Council of the Joint Area will determine its participation in the Joint Compliance Audit Committee and as such, will be referred to herein as “Joint Area Participants”.

2.2 To ensure compliance with sections 88.8 to 88.36 of the Act.

3. Name

3.1 The Committee shall be named the “South Simcoe Joint Compliance Audit Committee” hereinafter called “the Committee.”

4. Type of Committee

4.1 The Committee is a statutory committee.

5. Term

5.1 The term of office of the Committee is the same as the term of the office of the Council 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.

- 5.2 The term of office is from December 1 of a regular election year to November 14 of the next regular election year.
- 5.3 If an audit goes beyond the Committee term, the appointments may require an extension.

6. Duration

- 6.1 The Committee shall be established before October 1 of a regular election year.
- 6.2 The establishment of the Committee and terms of reference shall continue as set out herein from Council term to Council term until and unless determined otherwise by Council. However, the appointment of the members to the Committee shall be approved by each Council in the Joint Area prior to October 1st in each election year.

7. Mandate

- 7.1 The powers and functions of the Committee are set out in Sections 88.33 to 88.36 of the Act, and are generally described as:

Compliance Audit Application from an Elector:

- a) within 30 days receipt of a compliance audit application by an elector from the Clerk, the Committee shall consider the application and decide whether it should be granted or rejected;
- b) give to the candidate or registered third party, 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 or registered third party's election campaign finances;
- d) receive the auditor's report from the Clerk;
- e) within 30 days of receipt of the auditor's report, consider the report;
- f) if the report concludes that the candidate or registered third party appears to have contravened a provision of the Act relating to election campaign finances, decide whether to commence legal proceedings against the candidate or registered third party for the apparent contravention; and,
- g) after reviewing the report, give to the candidate or the registered third party, the Clerk and the applicant the decision of the Committee, and brief written reasons for the decision.

Clerk's Report to the Committee:

- a) within 30 days receipt of a report from the Clerk of any of the Joint Area Participants identifying any contributors to a candidate for office on a council or registered third party who appear to have contravened any of the contribution limits, consider the report and decide whether

- to commence legal proceedings; and
- b) after reviewing the report, give to the contributor and the Clerk the decision of the Committee, and brief written reasons for the decision.

8. Composition

- 8.1 The Committee shall be composed of a maximum of five (5) members, one member representing each of the Joint Area Participants with membership drawn from the following stakeholder groups:
- a) accounting and audit – accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates;
 - b) academic – college or university professors with expertise in political science or local government administration;
 - c) legal profession with experience in municipal law, municipal election law or administrative law;
 - d) 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;
 - e) individuals with adjudicative experience, including in conducting hearings and in the drafting and preparations of written decisions and reasons; and
 - f) other individuals with knowledge of the campaign financing rules of the Act.
- 8.2 The Committee 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 family members or employees of same, or any person connected to a candidate through an employment, contractual, business or partnership relationship;
 - d) any persons who are registered third parties in the municipality in the election for which the committee is established or family members or employees of same, or any person connected to a third party advertiser through an employment, contractual, business or partnership relationship; or
 - e) any person who is or intends to volunteer or seek employment to assist any candidate or third party advertiser in the election for which the committee is established.
- 8.3 When an application has been filed under section 88.33 or 88.35 of the Act, or a Clerk's report has been forwarded under section 88.34 of the Act, only three (3) of the five (5) members of the Committee shall comprise the audit committee for the purposes of reviewing and considering the application.

- 8.4 The Clerk of the responding municipality shall determine the selection of the three (3) sitting members of the Committee from the pool of members based on availability.
- 8.5 To avoid possible conflict of interest, an auditor or accountant appointed to the Committee must agree in writing to not undertake the audits or preparation of the financial statements of any candidates or registered third parties in any of the Joint Area Participants and any lawyer appointed to the Committee must agree in writing to not undertake the provision of any advice or representation to any candidate, registered third party or contributor in any of the Joint Area Participants. Failure to adhere to this requirement will result in the individual being removed from the Committee.

9. Member Selection and Appointment

- 9.1 All persons interested in serving on the Committee shall submit a letter of interest setting out their qualifications and experience. Current Committee members need only submit a letter indicating their continued interest in sitting on the Committee.
- 9.2 A Nomination Committee consisting of a majority of the Clerks of the Joint Area Participants shall review the applications and submit a joint short list of candidates to their respective Councils for approval.
- 9.3 Committee members shall be appointed by each Joint Area Participant Council.
- 9.4 In the event a vacancy occurs during the term, the municipality may rely on the remaining members to compose a committee of three (3) members.

10. Selection Criteria

- 10.1 Without limiting the foregoing, members shall be selected on the basis of the following:
 - a) demonstrated knowledge and understanding of municipal election campaign finance rules;
 - b) proven analytical and decision-making skills;
 - c) experience working on a committee, administrative tribunal, task force or similar setting;
 - d) availability and willingness to attend meetings;
 - and
 - e) excellent oral and written communication skills.

11. Chair of Committee

- 11.1 The Committee members shall select a Chair from amongst its members at its first meeting.

- 11.2 The Chair is the liaison between the members and the Secretary of the Committee on matters of policy and process.
 - 11.3 The Chair shall enforce the observance of order and decorum among the Committee members and the public at all meetings.
 - 11.4 When the Chair is absent, the Committee may appoint another member as Acting Chair. While presiding, the Acting Chair shall have all the powers of the Chair.
12. Secretary to Committee
 - 12.1 The Clerk of any of the Joint Area Participants that is not the responding municipality shall act as Secretary to the Committee.
13. Compensation
 - 13.1 Members of the Committee shall receive an initial honorarium of \$200.00, including mileage, for attendance at a training session the costs of which shall be shared equally amongst the Area Municipalities.
 - 13.2 Members shall receive an honorarium of \$200.00 per meeting, plus mileage at the rate of the responding municipality.
14. Costs and Funding
 - 14.1 The responding municipality shall fund and pay all costs associated with the Committee, including the retention of an auditor and any costs incurred as a result of a decision of the Committee being challenged to the Ontario Superior Court of Justice.
 - 14.2 The Joint Area Participants shall share equally in the costs associated with advertising and training.
 - 14.3 If the report indicates there was no apparent contravention and the Committee finds there were no reasonable grounds for the application, the Council or local board is entitled to recover the auditor's costs from the applicant.
15. Auditor
 - 15.1 Only auditors licensed under the *Public Accounting Act, 2004* are eligible to be appointed to conduct a compliance audit.
 - 15.2 The Clerks of the Joint Area Participants shall compile a joint list of municipal auditors that are willing and able to provide auditor services to the Committee.
 - 15.3 The Committee may appoint an auditor from the joint list, excluding the municipal auditor for the responding municipality.

16. Meetings

- 16.1 Meetings of the Committee shall be open to the public, but the Committee may deliberate in private.
- 16.2 Meetings shall be called by the Clerk of the responding municipality when required. The date and time of the meeting will be determined by the Clerk and communicated directly to the Committee members, candidate or registered third party, and applicant.
- 16.3 The municipality's website shall be used to communicate meeting notices, agendas, minutes and decisions.
- 16.4 The Committee shall conduct its meetings in accordance with the South Simcoe Joint Compliance Audit Committee Administrative Practices and Procedures established for the Committee by the Clerk under section 88.37 (6) of the Act. In the event a matter is not covered by said procedures, the Committee will give consideration to the responding municipality's Procedural By-law and the *Statutory Powers Procedures Act*, with modifications as necessary.

17. Conflicts

- 17.1 Committee members shall comply with the *Municipal Conflict of Interest Act* and shall disclose a pecuniary interest to the Secretary and absent him/herself from meetings for the duration of the consideration of the application, discussion and voting with respect to the matter.
- 17.2 In the event a member discloses a pecuniary interest in the application, the Clerk of the responding municipality shall select another member to replace him/her on the Committee.

18. Administrative Practices and Procedures

- 18.1 In accordance with the Act, the Clerk shall establish administrative practices and procedures for the Committee and shall carry out any other duties required under the Act to implement the Committee's decisions.
- 18.2 The Clerk may make changes to the Terms of Reference and Administrative Practices and Procedures that may be required from time to time due to legislative changes, or if, in the opinion of the Clerk, the amendments do not change the intent of the documents.