

# THE CORPORATION OF THE VILLAGE OF POINT EDWARD

## BY-LAW 4 OF 2018

### *Being a by-law to Establish and Administer a Joint Compliance Audit Committee.*

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**WHEREAS** S.88.37 of the Municipal Elections Act, 1996, as amended, requires that Councils appoint, before October 1 of an election year, a Compliance Audit Committee;

**WHEREAS** the Councils of the Townships of Brooke-Alvinston, Dawn-Euphemia, Enniskillen, St. Clair and Warwick, the City of Sarnia, the Municipality of Lambton Shores, the Towns of Petrolia and Plympton-Wyoming and the Villages of Oil Springs and Point Edward deem it advisable and expedient to establish a Joint Compliance Audit Committee;

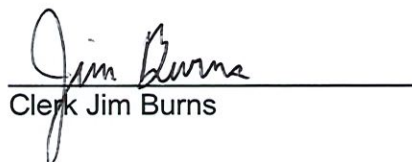
**WHEREAS** Section 391(1) of the Municipal Act, 2001, as amended from time to time, authorizes the council of a municipality to pass by-laws imposing fees or charges on persons for services or activities provided or done by or on behalf of it;

**NOW THEREFORE** the Council of the Corporation of The Village of Point Edward enacts as follows:

1. That a Joint Compliance Audit Committee, with full delegation of the permitted authority be established under the provisions of the Municipal Elections Act, 1996, as amended.
2. That the "Terms of Reference", attached as Schedule "A" and forming part of this By-Law, shall guide the structure and responsibilities of the Joint Compliance Audit Committee.
3. That the "Rules of Procedure", attached as Schedule "B" and forming part of this By-Law, shall guide the administration and meetings of the Joint Compliance Audit Committee.
4. That the "Application for a Compliance Audit", attached as Schedule "C" and forming part of this By-Law, shall guide applicants considering making an application for a compliance audit.
5. That the Joint Compliance Audit Committee authority shall extend only to applications made with respect to candidate's campaign finances related to the 2018 Municipal Elections.
6. A filing fee of \$300 is required for each application for a compliance audit, which fee may be refunded, on the recommendation of the Joint Compliance Audit Committee, and at the discretion of the host municipality, should the application be granted.
7. All other By-Laws or resolutions inconsistent with the provision of this By-Law, are hereby repealed.
8. This by-law shall come into force and take effect on the final passing thereof.

By-law read a first, second and third time and finally passed this 8<sup>th</sup> day of January, 2018.

  
\_\_\_\_\_  
Mayor Bev Hand

  
\_\_\_\_\_  
Clerk Jim Burns

## SCHEDULE "A" To By-Law Number 4 of 2018

### Joint Compliance Audit Committee Terms of Reference

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#### **MANDATE**

The powers and functions of the Committee are set out in Section 88 of the *Municipal Elections Act, 1996*.

1. Within 30 days of receipt of an application requesting a compliance audit, the Committee shall consider the request and decide whether it should be granted or rejected;
2. If the application is granted, the Committee shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances;
3. The Committee will review the auditor's report within 30 days of receipt and decide whether legal proceedings should be commenced; and
4. If the auditor's report indicates that there were no apparent contraventions and if there appears there were no reasonable grounds for the application, the Committee shall advise Council of the host municipality accordingly.

Members of Council, staff or candidates running for office in the 2018 municipal election are not eligible to be appointed to the Committee. Should an appointed Member accept employment with any of the member municipalities or register as a candidate with any of the member municipalities, their appointment will be terminated.

All Committee Members must agree in writing that they will not work for or provide advice to any candidate running for municipal office within the member municipalities.

Preference will be given to applicants with experience as, but not limited to, accountants, lawyers and /or auditors. To avoid any potential conflict of interest, applicants with accounting or auditing backgrounds must agree in writing that they will not offer their services to any municipal election candidates.

Anyone who has participated as candidates in the member municipality elections, or who have conducted audits or provided financial advice in respect of such campaigns, would be disqualified from participation on the Committee.

#### **COMPOSITION**

The committee shall be composed of not fewer than three and not more than seven members.

When a municipality is in receipt of an application for a compliance audit, the Clerk of the host municipality shall contact the Committee members and arrange for the Members to hear the audit request.

#### **TERM**

The term of the Committee is from December 1, 2018 to November 14, 2022.

#### **CHAIR**

At the first meeting to hear a request for a compliance audit, the Committee shall select one of its Members to act as a Chair.

#### **PROPOSED MEETING SCHEDULE**

The Committee shall meet as needed with meetings to be scheduled by the Clerk of the host municipality, in consultation with the Chair, when a compliance audit application is received.

#### **STAFFING AND FUNDING**

Staff from the host member municipality shall provide administrative support to the Committee. The host member municipality requiring the services of the Committee shall be responsible for all associated expenses.

#### **MEETINGS**

Meetings of the Committee shall be conducted in accordance with the open meeting requirements of the provisions in the *Municipal Act, 2001*. Newspapers as well as the websites of the member municipalities, where available, will be utilized to communicate the meeting notices and agendas.

#### **REMUNERATION**

\$200 – Retainer fee (includes compensation for review of any background materials). The Committee members will be paid a per diem rate of \$250/per day/per member and the mileage rate as set for Lambton County.

### **MEMBERSHIP SELECTION**

A Joint Compliance Audit Committee was first appointed for the December 1, 2010 to November 30, 2014 period. All existing members have accepted re-appointment for the December 1, 2018 to November 14, 2022 period. All existing committee members will be given an opportunity to be reappointed, for the next term. Advertising will take place to consider new members to fill any vacancies on the Committee. All new applicants will be required to submit an application/resume outlining their qualifications and experience. Should there be an insufficient number of applicants to fill all vacant positions, the Municipal Clerks will be asked to recommend qualified candidates to be appointed to the Committee.

A Selection Committee comprised of four municipal Clerks shall be established to review all applications and make recommendations to fill any vacancies. The Selection Committee may meet to review all applications based upon the approved selection criteria and conduct interviews, if necessary. Recommended applicants will be forwarded to each respective Council by the Selection Committee for appointment.

### **SELECTION CRITERIA**

1. Demonstrated knowledge and understanding of municipal election campaign financing rules;
2. Proven analytical and decision –making skills;
3. Experience working on committees, task forces, or similar settings;
4. Demonstrated knowledge of quasi-judicial proceedings;
5. Availability and willingness to attend meetings; and
6. Excellent oral and written communication skills.

## SCHEDULE "B" To By-Law Number 4 of 2018

### Rules of Procedure for the Compliance Audit Committee and Clerk

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#### 1. Rules of Procedure

The rules outlined in Schedule "B" shall guide the host Clerks and the Committee Members in the administration and running of all meetings of the Committee.

#### 2. Matters Not Dealt With in the Rules of Procedure

If these rules do not provide for a matter of procedure that arises during a meeting, the practice shall be determined by the Chair and the Chair may do whatever is necessary and permitted by law to enable the Committee to effectively and completely adjudicate on the matter before it.

#### 3. Meetings

- i) The Committee shall meet at the request of the Clerk of the host municipality.
- ii) Meetings of the Committee shall be held at the municipal office of the host municipality or such other location, as the host Clerk deems appropriate.
- iii) Committee meetings shall commence at a time and date to be set by the Clerk of the host municipality and shall be adjourned on a vote of the Committee.
- iv) Three Committee Members are required at each meeting of the Committee.
- v) Meetings of the Committee shall, subject to the exceptions found in the Municipal Act, 2001, be open to the public. *Deliberations* of the Committee may take place in a meeting that is closed to the public.
- vi) The Applicant, the Candidate and, where applicable the auditor shall be given an opportunity to address the Committee.
- vii) Addresses to the Committee shall be no more than ten minutes in length.

#### 4. Committee Chair

- i) At its first meeting the Committee shall elect one of its members as Chair for the term of the Councils that appointed the Members and until a successor is appointed. When the Chair of the Committee is absent through illness or otherwise, the Committee may appoint another member as Acting Chair. While presiding, the Acting Chair shall have all the powers of the Chair.
- ii) If the Chair of the Committee resigns as a member of the Committee or resigns as the Chair of the Committee, the Committee shall appoint another member as Chair for the balance of the term of the Councils and until a successor is appointed.
- iii) The Chair is the liaison between the Members and the Clerks of the respective host municipalities on matters of policy and process.
- iv) The Chair shall enforce the observance of order and decorum among the Committee Members and the public at all meetings.

#### 5. Delegation by Clerk

The Clerk of the host municipality may delegate administrative responsibilities to a Deputy Clerk.

#### 6. Agenda

- i) Before each meeting the Clerk of the host municipality shall provide an agenda to each Member of the Committee.
- ii) The agenda shall include a copy of any written submissions made by the applicant or the Candidate.
- iii) The first matter of business on each agenda shall be the declaration of any conflict of interest.

iv) The order of business of a Committee meeting to consider an Application shall be as follows:

1. Call to Order
2. Disclosures of Conflict of Interest
3. Chair to Read Opening Statement
4. Statements from the Committee Members
5. Preliminary Motions (optional)
6. Chair to Identify Agenda Item under Consideration
7. Chair to request Applicant and Candidate to Identify Themselves
8. Presentation of Application by Applicant or Applicant's Agent
9. Presentation by Candidate or the Candidate's Agent
10. Committee Debate
11. Closed Meeting (if required)
12. Rise and Report
13. Other Business
14. Adjournment

#### **7. Lack of a Full Committee**

If a full Committee (three Members) is not present thirty minutes after the time fixed for a meeting of the Committee, or the resumption of a meeting after adjournment, or should a Member at a meeting be lost for a period of thirty consecutive minutes, the meeting may stand adjourned until the next meeting time scheduled by the Clerk.

#### **8. Committee Procedures**

##### **A. Opening Statement**

Where the agenda includes consideration of an Application for a Compliance Audit, the Chair will read an opening statement outlining the procedure and format of the Committee meeting.

##### **B. Statements**

If the agenda includes consideration of an Application for a Compliance Audit, after reading the opening statement the Chair will entertain any statements from Committee Members.

##### **C. Motions**

Following opening statements and before considering the substance of agenda items, the Committee Members may make preliminary motions with respect to any business properly before the Committee.

##### **D. Committee Business**

Prior to consideration of an item on the Committee agenda, the Chair will identify for those present the agenda item to be considered.

##### **E. Introduction and Recording of Applicant and Candidate**

Prior to consideration of an Application, the Chair shall request the applicant and Candidate to identify themselves, and to provide their name and mailing address to the Clerk during the meeting.

##### **F. Presentation of Application**

- (1) The Applicant or the Applicant's agent may address the Committee.
- (2) The Committee may, through the Committee Chair, ask questions of the applicant or his/her agent.
- (3) The Candidate will be permitted to view any documents submitted by the applicant.

##### **G. Presentation by Candidate**

- (1) The Candidate or the Candidate's agent may address the Committee. The Candidate may respond to the content of either the applicant's address or documents provided to the Committee.
- (2) The Committee may, through the Chair, ask questions of the Candidate.

#### H. Rules of Debate

- (1) When two or more Members wish to speak, the Chair shall designate who first requested to speak as the Member who speaks first.
- (2) 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 an official of the host municipality; and
  - (d) of any other person addressing the Committee.
- (3) A Member may ask a question only for the purpose of obtaining information relating to the matter then under discussion.
- (4) Every Member present at a meeting of the Committee when a question is put shall vote on the question, unless prohibited by statute, in which case the fact of the prohibition shall be recorded in the minutes of the meeting.
- (5) The matter put to a vote shall be in the form of a motion addressing the matter then under consideration.
- (6) Any Member may propose a motion on the matter then under consideration which the Clerk shall record in writing.
- (7) 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 Committee Members prior to the vote being taken
- (8) The following are deemed to be procedural motions and shall be subject to consideration in the following order:
  - (a) To change the order of business (not debatable)
  - (b) To adjourn and amendments thereto (not debatable)
  - (c) That the vote be now taken (not debatable)
  - (d) To defer.

#### 9. Notice

- (1) The Clerk shall give notice of a Committee meeting at least five working days before the Committee meeting. The notice may be either posted on the host municipality's web site or published in a local newspaper having general circulation in the host municipality. The notice shall contain the following information:
  - (a) A general description of the purpose of the meeting.
  - (b) Date, time and location of the meeting.
- (2) Where an Application will be considered at a Committee meeting, the Clerk shall give reasonable notice to the Applicant and the Candidate of the time, place and purpose of a meeting and of the fact that if either party fails to attend the meeting the Committee may proceed in the party's absence and the party will not be entitled to further notice in relation to the meeting. The notice shall include the content of the Application. The Candidate may respond to the Application in writing. A written response shall be submitted to the Clerk of the host municipality a minimum of two days prior to the Committee meeting at which the Application will be considered.
- (3) The Clerk will forward notice of the Committee's decision to the Applicant and the Candidate at the mailing address provided to the Clerk at the meeting.

#### 10. Committee Decisions under the Municipal Elections Act, 1996

- (1) In accordance with S. 88.33(7) of the Municipal Elections Act, 1996, within 30 days of receipt of the Application, the Committee will decide whether to grant or reject the Application.
- (2) If the Committee decides to grant the Application it shall, by resolution, appoint an auditor licensed under the Public Accounting Act, 2004 or prescribed persons to conduct a compliance audit of the Candidate's election campaign finances.
- (3) In accordance with S. 88.33(17) of the Municipal Elections Act, 1996, within 30 days of receipt of an auditor's report, the Committee will consider the report and may commence a legal proceeding against the Candidate for any apparent contravention of a provision of the Municipal Elections Act, 1996 relating to election campaign finances.

**11. Grant Exceptions from Procedures**

The Committee may waive any rule of procedure in this Schedule, as it considers appropriate to ensure that the real questions in issue are determined in a just manner.

**12. Voting**

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

**13. Minutes**

i) The Clerk of the host municipality shall prepare minutes of the meeting of the Committee and shall provide Members with a copy of the minutes, as soon as the minutes are available.

ii) The Committee Members shall review and sign the minutes, to confirm that the minutes reflect the Committee's actions.



Application for a COMPLIANCE AUDIT of Election Campaign Finances

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**What steps do I take if I have a concern about a candidate's or registered third party's election campaign finances?**

1. Contact the municipal Clerk and see if they are able to provide further information that answers your questions or concern.
2. If you believe that a candidate's or third party's election campaign finances contravened the *Municipal Elections Act*, submit an application to the municipal Clerk for a compliance audit. See **How Do I Apply for a Compliance Audit?** below.

**What is a compliance audit?**

A compliance audit is an audit of a candidate's or registered third party's election campaign finances and their compliance with the provisions of the *Municipal Elections Act, 1996* related to election campaign finances.

**What is the Joint Compliance Audit Committee?**

The *Municipal Elections Act, 1996* as amended requires that every municipality form an Election Compliance Audit Committee on or before October 1 of an election year for the purposes of Section 88.33.

Lambton County municipalities have formed one Joint Compliance Audit Committee to address all compliance audit applications within the County of Lambton. Each municipal Clerk will be the contact for questions and applications within their municipality. When a municipality is in receipt of an application for a compliance audit, the Clerk of the host municipality shall contact the Committee Members and arrange for the Members to hear the audit request.

The Joint Compliance Audit Committee will have three members and does not include employees or officers of the municipality or local board, members of the council or local board, or any persons who are candidates in the election for which the committee is established. The Committee has the same term of office as the council (for the 2018 municipal election, the term of office is December 1, 2018 - November 15, 2022).

The powers and functions of the Committee are set out in the *Municipal Elections Act, 1996*. The Committee will:

- Consider compliance audit applications received and decide whether each application should be granted or rejected  
Timeline: within 30 days after receiving the application (s. 88.33(7)).
- If the application is granted, appoint an Auditor to conduct a compliance audit of the candidate's election campaign finances.
- Receive the auditor's report (s. 88.33(13)).
- Consider the auditor's report and decide whether legal proceedings should be commenced or make a finding whether there were reasonable grounds for the application. Timeline: within 30 days of receipt of the auditor's report (s. 88.33(17)).

**How Do I Apply for a Compliance Audit?**

1. Pick up an application from the Municipal Office, 135 Kendall Street, Point Edward, ON, N7V 4G6. Submit a written application for a compliance audit and deliver your written information to the Clerk, within 90 days of the candidate's filing date.
2. Your application must include:
  - Notice that you are eligible to vote as an elector in the Village of Point Edward's municipal elections
  - Your name and contact information, including mailing address, telephone number and e-mail address (if applicable)
  - Name of the candidate whose election finances you are requesting a compliance audit for and the office they were running for in the election
  - The reasons that you believe indicate that the candidate has contravened the provisions of the *Municipal Elections Act, 1996* relating to municipal election campaign finances
  - Any other relevant information
  - The date you submit the application to the Clerk
  - Your signature.
3. Mail or deliver your request for a compliance audit in a sealed envelope marked "**PRIVATE AND CONFIDENTIAL**" to:

Chief Administrative Officer/Clerk, Village of Point Edward, 135 Kendall Street, Point Edward, ON N7V 4G6



**What happens next?**

In accordance with section 88.33(3) of the *Municipal Elections Act, 1996*, all applications must be received by the Clerk within 90 days after the latest of:

- a) The filing date under section 88.30;
- b) The candidate’s supplementary filing date, if any, under section 88.30;
- c) The filing date for the final financial statement under section 88.30; or
- d) The date on which the candidate’s extension, if any, under section 88.23(6) expires.

The Clerk will forward applications that are complete to the Joint Compliance Audit Committee for consideration.

Within 10 days after receipt of the application	The Clerk will forward the application to the Joint Compliance Audit Committee and provide a copy to each member of council.
Within 30 days of receiving the application	The Joint Compliance Audit Committee will consider the application and decide whether it should be granted or rejected.
If the committee decides to grant the application	<ol style="list-style-type: none"> <li>1. The Committee will appoint an Auditor to conduct a compliance audit of the candidate’s election campaign finances.</li> <li>2. The Auditor will promptly conduct an audit of the candidate’s election campaign finances to determine whether he or she has complied with the provisions of the <i>Municipal Elections Act</i> relating to election campaign finances and will prepare a report with the findings to be submitted to the candidate, council, the Clerk, and the applicant.</li> </ol>
If the committee rejects the application	The Committee will direct the Clerk to send correspondence to the applicant conveying the Committee’s decision. The Clerk will also advise each member of council about the Committee’s decision by providing a copy of the correspondence sent to the applicant.
Within 10 days after receiving the auditor’s report	The Clerk will forward the report to the Joint Compliance Audit Committee.
Within 30 days of the Joint Compliance Audit Committee receiving the auditor’s report	<p>The Joint Compliance Audit Committee will review the report and may:</p> <ol style="list-style-type: none"> <li>a. If the report concludes that the candidate appears to have contravened a provision of the Act relating to election campaign finances, commence a legal proceeding against the candidate for the apparent contravention, or</li> <li>b. If the report concludes that the candidate does not appear to have contravened a provision of the Act relating to election campaign finances, make a finding as to whether or not there were reasonable grounds for the application.</li> </ol>

## APPLICATION FOR A COMPLIANCE AUDIT

I am entitled under the *Municipal Elections Act, 1996*, as amended (MEA), to vote for members of Point Edward Council.

Yes

No

Name of Municipality:	Village of Point Edward
Your Name:	
Mailing Address:	
Postal Code:	
Telephone:	
E-mail Address (optional):	

I am applying for an election compliance audit of the election campaign finances of:

Candidate Name: \_\_\_\_\_ Office:

- Councillor or
- Mayor

Please explain the reason that you believe that the candidate named above has contravened the *Municipal Elections Act, 1996* relating to municipal election campaign finances.

Section/Provision of MEA	Comments

Please add any other information that you feel is relevant.

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If you have provided information on additional attached pages, please number the pages, attach to this application, and indicate the total number of pages of the application below.

Total number of pages of the application: \_\_\_\_\_

This application will be shared with the Joint Compliance Audit Committee, the Auditor chosen to investigate this application (if applicable), the Clerk and council. This information is collected under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56, governing the collection, use and disclosure of personal information.

If this application is forwarded to an auditor and the auditor's report indicates that there was no apparent contravention and the Joint Compliance Audit Committee finds there were no reasonable grounds for the application, the council or local board is entitled to recover the auditor's costs from you.

By signing below, I confirm that the information provided in this application is complete and accurate to the best of my knowledge.

\_\_\_\_\_  
Date Application submitted

\_\_\_\_\_  
Signature

Date Application Received: \_\_\_\_\_ (staff initial) \_\_\_\_\_

Payment of \$300.00 made by: Cash In person Cheque By e-mail Debit By mail Date: \_\_\_\_\_

Receipt provided: Clerk received completed application by legislated deadline  Yes  No Date: \_\_\_\_\_ Initials: \_\_\_\_\_

Due Dates below: 10 days after receiving application, application forwarded to the Joint Compliance Audit Committee and council

\_\_\_\_\_  
(Date) delivered to Joint Compliance Audit Committee (staff initial) \_\_\_\_\_

\_\_\_\_\_  
(Date) delivered to council (if applicable) (staff initial) \_\_\_\_\_

Within 30 days of receiving the application, the Joint Compliance Audit Committee will decide whether application will be granted or rejected.

Application Granted Date: \_\_\_\_\_  
Application Rejected Date: \_\_\_\_\_ (staff initial) \_\_\_\_\_

If application is granted, Joint Compliance Audit Committee to appoint an auditor to conduct audit of candidate's election campaign finances.

Date auditor appointed: \_\_\_\_\_  
Auditor: \_\_\_\_\_ (staff initial) \_\_\_\_\_

Candidate, Council or local board, the Clerk, and the applicant receive auditor's report.

Date: \_\_\_\_\_ (staff initial) \_\_\_\_\_

Within 10 days of receiving the auditor's report, the Clerk to forward report to the Joint Compliance Audit Committee. (staff initial) \_\_\_\_\_

\_\_\_\_\_  
Date delivered to Joint Compliance Audit Committee

The Joint Compliance Audit Committee will consider the auditor's report within 30 days of receiving it and may either:

Commence legal proceedings against the candidate  
\_\_\_\_\_  
Date legal proceedings commenced (staff initial) \_\_\_\_\_

Make finding as to whether there was reasonable grounds for the application for a compliance audit  
\_\_\_\_\_  
Date decision related to grounds for application made (staff initial) \_\_\_\_\_

\_\_\_\_\_  
(staff initial) \_\_\_\_\_

If the report indicates that there was no apparent contravention and the committee finds there were no reasonable grounds for the application, the committee will make a recommendation to council related to cost recovery of the auditor's cost.