



Municipal Election Complaints	City Clerk – Election Office
Policy	Policy No.: EO-22-23

1. Purpose

- 1.1. The purpose of this Policy is to ensure that elections-related complaints are received and addressed in a timely manner, by the appropriate party.

2. Application

- 2.1 This Policy applies to all City Clerk's Office staff, election officials designated by the City Clerk, and complainants during City of Hamilton municipal elections and/or by-elections.

3. Legislative Authority

- 3.1 The City Clerk is an Officer of the City, responsible for the duties of the Municipal Clerk as prescribed in provincial legislation, including the *Municipal Elections Act, 1996* ("MEA").
- 3.2 The City Clerk's broad powers and responsibilities during an election include:
- a. running the City's elections and by-elections;
 - b. creating forms, policies, and procedures;
 - c. communicating to voters;
 - d. educating and managing candidates; and
 - e. overseeing candidate financial disclosure.

4. Policy

4.1 Election-related complaints can be made through the following methods:

Phone: (905) 546-4408

Email: elections@hamilton.ca

In-Person: 71 Main St W, 1st Floor Office of the City Clerk

4.2 The Elections Office will acknowledge, and review complaints related to the services and processes within its jurisdiction and provide notification of receipt to the complainant within 24 business hours.

4.2.1 NOTE: In extraordinary circumstances (e.g., on or around the date of the municipal election, during labour disruption, etc.), the City Clerk's Office may not be in a position to guarantee these standards can be satisfied.

4.3 Complaints regarding services and processes within the jurisdiction of Election Services will be directed to the Manager, Elections Print and Mail or the appropriate unit.

4.4 Elections staff will make every effort to promptly resolve complaints about services within the unit's jurisdiction and report back the outcome to the complainant.

4.5 Where a complaint relates to services and/or processes that are outside the City Clerk's jurisdiction, the complainant will be provided with information on the appropriate process to make the complaint, in alignment with Appendix "A" - Election Related Complaints Procedures, attached hereto.

5. Legislation

Municipal Elections Act, 1996, S.O. 1996, CHAPTER 32

6. Revision History

Policy Approved	August 2023
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Appendix "A"

Election Related Complaints Procedures

Matter	Complaints & Review Process, Details regarding Authority
Accessibility	<p>A complaint regarding accessibility for people with disabilities can be made online, by e-mail, verbally or in writing.</p> <p>Online: Accessibility Feedback/Complaint Form City of Hamilton</p> <p>Email: aoda@hamilton.ca</p> <p>Phone: 905 546 2424 Ext. 8080</p> <p>Fax: 905 546 2062</p> <p>Address: Inclusion, Diversity, Equity and Accessibility 120 King St West, 9th Floor Hamilton, ON L8P 4V2</p>
Campaign Finance	<p>In addition to the review of contributions, and reports on contraventions completed by the City Clerk as directed by MEA s.88.34 and 88.36, an eligible elector who believes that a mayor or councilor candidate or registered third party advertiser has contravened the election finance rules may apply for a compliance audit of their campaign finances.</p> <p>The City Clerk must receive the compliance audit application within 90 days of the legislated financial filing deadlines for candidates and shall forward the application to the City's Compliance Audit Committee.</p> <p>The Committee shall consider the application and make a decision within 30 days whether to accept or reject the application.</p> <p>The decision of the Committee to grant or reject an application for a compliance audit may be appealed to the Superior Court of Justice.</p> <p>If an audit is approved and conducted, the Committee may commence legal proceedings against a candidate for any apparent contraventions of the Municipal Elections Act, 1996.</p> <p>For more information about the Compliance Audit Process, or to download an application for an Election Compliance Audit, go online to: Election Compliance Audit Process City of Hamilton</p>

	<p>The City's Compliance Audit Committee does not consider applications for school board trustee candidates. The eligible elector is required to submit the application directly to the appropriate school board.</p> <p>A person may also lay a charge or take any other legal action at any time with respect to an alleged contravention of the Act relating to election campaign finances or contribution limits.</p> <p>Authority: <i>Municipal Elections Act, 1996 s. 88.33, s. 88.34, s. 88.35, s.88.36 and s. 88.37</i></p>
Candidates Meetings and Events held During the Election	<p>The City Clerk performs an administrative function in the conduct of the municipal election within the legislative framework established by the province. Candidate-related events organized by other institutions or organizations during City of Hamilton municipal elections and/or by-elections, such as all-candidates debates, do not fall within the mandate, authority, or responsibility of the City Clerk's Office.</p>
Conduct of a Candidate	<p>The City Clerk performs an administrative function in the conduct of the municipal election within the legislative framework established by the province. The Municipal Elections Act, 1996 does not provide the City Clerk with any investigative or enforcement powers.</p> <p>An individual with concerns about the conduct of a candidate may seek legal counsel or contact Hamilton Police Services if the matter relates to an offence under the Criminal Code (Canada).</p>
Conduct of a Member of Council	<p>The Integrity Commissioner plays a role in investigating complaints (formal or informal) about the conduct of Members of Council. Complaints filed with the Integrity Commissioner must relate to a potential violation of the City of Hamilton's Code of Conduct for Members of Council (By-Law 16-290), City protocol, by-law or policy governing ethical behaviour of council members, or the Municipal Conflict of Interest Act (MCIA).</p> <p>Information on how to file a complaint about a member of Council is available at: Make a Complaint about a Member of Council; a Member of a Local Board or a Citizen Committee Member City of Hamilton, Ontario, Canada</p>
Conduct of Voting Place Staff	<p>A complaint regarding the conduct of voting place staff can be made by e-mail, verbally or in writing and directed to the attention of:</p> <p>Manager, Elections & Print/Mail: Email: elections@hamilton.ca Phone: 905-546-2424 ext.3017 Address: Office of the City Clerk 71 Main St W, First Floor, Hamilton, ON L8P 4Y5</p>

<p>Election Results</p>	<p>An eligible elector may make an application to the Superior Court of Justice, within 90 days after voting day, requesting that it determine,</p> <ul style="list-style-type: none"> (a) Whether the election is valid; (b) Whether a person's election to an office in the election is valid; (c) If a person's election to an office is not valid, whether another person was validly elected or is entitled to the office; (d) If an election is not valid or a person's election to an office is not valid whether a by-election should be held. <p>Hamilton.Superior.Court@ontario.ca</p> <p>The order of this Court may be appealed to the Divisional Court. Authority: <i>Municipal Elections Act, 1996 s. 83 to 87</i></p>
<p>Election Signs</p>	<p>Election signs in Hamilton must comply with the City of Hamilton's: Sign By-law No. 22-031</p> <p>Responsibility for enforcing the City of Hamilton Sign By-Law rests with the Municipal Law Enforcement Division.</p> <p>A person can contact the Licensing Section to report election signs that conflict with the by-law:</p> <p style="padding-left: 40px;">Email: licensing@hamilton.ca</p> <p style="padding-left: 40px;">Phone: 905-546-2782 option 3</p> <p>Authority: <i>Municipal Elections Act, 1996 s. 88.3 to 88.5, s. 88.7</i></p>
<p>Municipal Elections Act, 1996 provisions (complaints against the Act)</p>	<p>The City Clerk performs a statutory role in the conduct of an election and must follow the provisions of the Municipal Elections Act, 1996.</p> <p>Authority: <i>Municipal Elections Act, 1996 s. 11(2)</i></p> <p>Any complaints against the provisions of the Municipal Elections Act, 1996 are referred to the Minister of Municipal Affairs who has ministerial responsibility for the Act.</p> <p><u>Minister of Municipal Affairs and Housing's Office</u></p> <p>General inquiry: 416-585-7000</p> <p>Fax: 416-585-4230</p> <p>Primary address: College Park 17th Flr, 777 Bay St, Toronto, ON M7A 2J3</p> <p>Mailing address: College Park 17th Flr, 777 Bay St, Toronto, ON M7A 2J3</p>

<p>Municipal Questions on the Ballot</p>	<p>The Minister of Municipal Affairs, or any other person or entity, may appeal to the Chief Electoral Officer of the Province of Ontario on the limited grounds that the question is not clear, concise and neutral or that it is incapable of being answered in the affirmative or negative by filing with the Clerk a notice of appeal setting out the objections and the reasons in support of the objections.</p> <p>The Chief Electoral Officer shall hold a hearing within 60 days and dismiss the appeal or allow the appeal in whole or in part.</p> <p>Authority: <i>Municipal Elections Act, 1996 s. 8.1</i></p>
<p>Recounts</p>	<p><u>Council Passed Resolution</u></p> <p>Within 30 days after the clerk's declaration of the results, the council of a municipality may pass a resolution requiring a recount of the votes cast,</p> <p>(i) for all or specified candidates for an office on the council,</p> <p>(ii) for all or specified answers to a question submitted by the council,</p> <p>(iii) for and against a by-law submitted by the council; Reference <i>MEA s.57(1)</i></p> <p><u>Application for Order for Recount</u></p> <p>A person who is entitled to vote in an election and has reasonable grounds for believing the election results to be in doubt may apply to the Superior Court of Justice for an order that the clerk hold a recount.</p> <p>Reference <i>MEA s.58(1)</i></p> <p>For information about the Recount procedure see the City of Hamilton's EO-26-23: Recount Procedure.</p>

<p>Third Party Advertising</p>	<p>A complaint regarding the Municipal Election Act's third-party advertising provisions can be made in writing to the attention of:</p> <p>Manager, Elections & Print/Mail: Email: elections@hamilton.ca Address: Office of the City Clerk - Election Office 71 Main St W, First Floor Hamilton, ON L8P 4Y5</p> <p>While the Municipal Elections Act, 1996 does not provide the City Clerk with investigative or enforcement powers related to third party advertising, the Municipal Elections Act, 1996 does allow for the municipality to require the removal or discontinuance of advertising if satisfied there has been a contravention.</p> <p>Written complaints received by the Election office may be escalated to the City Manager's Office for review and possible enforcement action.</p> <p>Authority: <i>Municipal Elections Act, 1996 s. 88.7</i></p>
<p>Voting Places</p>	<p>A complaint regarding a voting place can be made to the attention of</p> <p>Manager, Elections & Print/Mail: Email: elections@hamilton.ca Phone: 905-546-2424 ext.3017 Address: Office of the City Clerk - Election Office 71 Main St W, First Floor Hamilton, ON L8P 4Y5</p>