



Recount Procedure	City Clerk – Election Office
	Procedure No.: EO-26-23

1. Purpose

- 1.1. This document outlines the City of Hamilton’s procedures for a recount in accordance with the provisions of the *Municipal Elections Act*, 1996 (“MEA”) and Ontario Regulation 101/97 (“Regulation”).

2. Application

- 2.1. This Procedure applies to election officials designated by the City Clerk (“Clerk”), candidates, and scrutineers during a recount in City of Hamilton municipal elections and/or by-elections.
- 2.2. This Procedure does not apply to recounts on votes on a by-law or question.
- 2.3. This Procedure does not apply to recounts held pursuant to section 60(3) of the MEA.

3. Legislative Authority

- 3.1. The Clerk is responsible for preparing for and conducting a recount in the election in the circumstances as prescribed by the MEA. *Reference: 11(2) (b), 56(1)(a), 56(3), 57(1)(a)(b), 57(2) 58(3), 58(4) 58(5) MEA, O. Reg 101/97*

4. Policy

Definition

- 4.1. “**Lot**” means a method of determination by placing the names of the Candidates on equal size pieces of paper and placed in a container with one Candidate name being drawn by the City Clerk.

Timeline for a recount

4.2. The City Clerk shall hold a recount within 15 days after:

- (a) the Clerk’s declaration of the results of the election if there is a tied vote;

Reference: MEA s.56(1)(2) and/or

- (b) a resolution passed by City Council or a local board and/or minister within 30 days after the Clerk’s declaration of the results requiring a recount of the votes cast, passed *Reference: MEA s. 57(1)(2); and/or*

- (c) the Clerk's receipt of an order from the Superior Court of Justice, arising from an Application for an order that the Clerk hold a recount, commenced within 30 days after the Clerk’s declaration of the results. *Reference: MEA s. 58(2)(4).*

Recount schedule and notice given

4.2 The Clerk shall:

- a. designate the date, time, and place of the recount;

- b. provide written notice of the recount to:

- i. every certified candidate for an office that is the subject of the recount;
- ii. in the case of a recount requested by City Council or a Local Board subsection 57(1) of the MEA, the Council or Local Board, as the case may be; and

- iii. in the case of a recount ordered by the Superior Court of Justice under section 58 of the MEA, the applicant(s). *Reference: 4.1.(i)-(iii) O. Reg 101/97- General*
- c. appoint election officials for the purposes of the recount and designate their titles and duties.

Who may be present at a recount

- 4.3 The following persons are entitled to be present at the recount:
- a. the City Clerk and any other election official appointed for the recount.
 - b. any certified candidate for the office that is the subject of the recount.
 - c. the applicant(s), in the case of a recount ordered under section 58 of the MEA.
 - d. one (1) lawyer for each of the certified candidates and/or applicant(s).
 - e. one (1) scrutineer for each certified candidate and/or applicant(s) at each Recount Station, appointed by the certified candidate or applicant. *Reference MEA s.16 (1), (4)*
 - f. any other person authorized by the City Clerk. *Reference 61(1)(7) MEA*
- 4.4 A person referred to in section 4.3 of this procedure is entitled,
- a. to examine each ballot as the votes are being counted by the clerk (but not to touch the ballot); and
 - b. to dispute the validity of a ballot or the counting of votes in a ballot. *Reference MEA s. 61(5)*
- 4.5 The clerk shall determine a dispute referred to in section 4.4(b) of this procedure.

- 4.6 The City Clerk may appoint security personnel to be election officials to ensure the safekeeping of the ballots during the recount.

Recount procedures

- 4.7 The recount shall be conducted in the same manner as the original count, that is, where vote counting equipment was used for the original count, the marked ballots will be fed into the vote tabulators in accordance with the City of Hamilton's Procedure for the Use of Vote Tabulators and Accessible Vote Tabulators EO-10-22. *Reference: MEA s. 60(1)*
- 4.8 The clerk shall open the ballot boxes and count, in the case of a recount in an election for an office, the number of votes for each candidate who is subject to the recount under section 56, 57, 58 or 59 of the MEA.
- 4.9 The clerk shall reject from the count all ballots and votes in a ballot that do not comply with the rules set out in subsection 3(2) of *O. Reg 101/97-General*.
- 4.10 The clerk may conduct the recount by adding the votes from the statements of results prepared by the deputy returning officers under subsection 55 (1) of the Act, rather than by following section 4.8 and 4.9 of this procedure, if a recount under those rules is waived by,
- i. each candidate subject to the recount under section 56, 57, 58 or 59 of the Act who is present, in the case of a recount in an election for office,
 - ii. the council that submitted the by-law, in the case of a recount in an election to obtain the assent of the electors to a by-law,
 - iii. the Minister, council or local board that submitted the question, in the case of a recount in an election to obtain the opinion of the electors on a question, and

- iv. the applicant, if he or she is present, in the case of a recount ordered under section 58 of the Act. *Reference: O. Reg. 101/97, s. 4.*
- 4.11 The clerk may conduct, as part of a recount under MEA section 56, 57 or 58 that relates to an office, a recount of the votes cast for another candidate for that office. *Reference MEA s.59*

Results

- 4.12 The City Clerk shall post for inspection a copy of the results tapes from each of the tabulators in a designated area onsite as they are produced.
- 4.13 The results from each tabulator will be compiled.
- 4.14 When the recount is complete, the Clerk shall,
- a. announce the result of the recount; *Reference MEA s.62(1)(a)* and
 - b. if there are disputed ballots,
 - i. announce the number of them,
 - ii. announce the result that would be obtained if the disputed ballots were excluded, and
 - iii. write the number of the voting place on the back of and initial each disputed ballot, place them in a separate envelope clearly marked so as to indicate its contents, and seal the envelope.
Reference MEA s. 62(1)(b).
- 4.15 The Clerk shall announce the results of the recount and provide copies of the Clerk's statement of the results of the recount to all candidates involved in the recount.
- 4.16 The City Clerk shall secure all materials from the recount.

Breaking a tied vote

4.17 If the recount indicates that two or more candidates who cannot both or all be declared elected to an office have received the same number of votes, the clerk shall choose the successful candidate or candidates by lot.

Reference MEA s. 62(3).

Declaration of results

4.18 The City Clerk shall, on the 16th day following the completion of the recount, declare the successful candidate(s) elected if no application for a judicial recount has been made. *Reference MEA s. 62(4).*

5. Legislation

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

6. Revision History

Policy Approved	October 2023
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