



The Corporation of the Town of Tecumseh

Policy Manual

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Table of Contents

1. Purpose.....	2
2. Scope.....	2
3. Definitions	2
4. Implementation.....	3
5. Policy	4
6. Procedure	5
6.1 Response Time.....	5
6.2 Necessary Information for Complaint.....	5
6.3 Contact Information for Filing a Complaint:.....	5
6.4 Step 1 – Review of Complaint.....	6
6.5 Step 2 – Review by the Town Clerk	7
6.6 Potentially Frivolous or Vexatious Complaints	7
7. Review Period.....	8
Appendix “A”	9

1. Purpose

- 1.1 To ensure that the election services to be provided respond to and meet the needs of the Town of Tecumseh (“**Town**”). This commitment includes ensuring that all policies and procedures are in place to respond effectively to election complaints surrounding by-laws and policies, use of Town resources, and information provided in the course of a Town municipal election.
- 1.2 The purpose of this policy is to create a framework of responsibilities for a consistent approach for responding to and resolving all election-related complaints that are directed at the Town by members of the public, Town staff, candidates, registered thirty party advertisers and electors.

2. Scope

- 2.1 The Policy adheres to the *Municipal Elections Act*, 1996 (the “**Act**”).
- 2.2 This Policy applies only to complaints about municipal election services under the Town Clerk’s jurisdiction. This Policy does not cover or apply to matters governed by other legislation or regulations.

3. Definitions

- 3.1 “**Act**” shall mean the *Municipal Elections Act*, 1996, S.O, c.32, as amended.
- 3.2 “**Candidate(s)**” shall mean the following:
 - 3.2.1 A person who has filed a nomination form for election to any of the following: for an office on a municipal council, school board trustee, Member of Provincial Parliament, or a Member of Parliament (collectively an “Office”) pursuant to the relevant legislation, or any other person acting on their behalf. Candidate shall also mean for the purposes of this Policy those individuals who have publicly expressed an intention to file a nomination form for election to an Office.
 - 3.2.2 Where referred to in this Policy, the term Candidate may also include a political party, constituency association, Registered Third-Party, or any other person or group seeking to influence person(s) to vote for or against any Candidate, question, or by-law during an Election Period or in respect of a subsequent Election.

- 3.3 “**Complainant**” shall mean the person who is dissatisfied and is filing the complaint.
- 3.4 “**Election**” shall mean an election or by-election at the municipal, regional, school board, provincial or federal level of government or political party election.
- 3.5 “**Election Official**” shall mean the Deputy Clerk or designate.
- 3.6 “**Electors**” shall mean people who are eligible to vote in an election.
- 3.7 “**Registered Third-Party**” shall mean an individual, corporation or trade union that has filed a registration as a Third-Party advertiser in the municipal Election in accordance with section 88.6 of the Act or is a Third-Party pursuant to Provincial or Federal election legislation.
- 3.8 “**Staff**” shall mean all full-time, part-time, temporary students, co-operative placement staff, union employees, Town volunteers, and contract persons employed by the Town.
- 3.9 “**Town**” shall mean the Corporation of the Town of Tecumseh.
- 3.10 “**Town Clerk**” shall mean the appointed statutory position with the Town responsible for administering Elections under the Act.

4. **Implementation**

- 4.1 The Legislative and Clerk Services Department has established this Policy to acknowledge and review complaints related to Election services as soon as possible. In extraordinary circumstances (e.g., voting day) timelines may not be guaranteed.
- 4.2 It is the responsibility of all Candidates, Registered Third-Party advertisers, contributors, and Electors to ensure they adhere to all applicable rules established in the Act, and to consult independent legal counsel where they are unsure of their obligations under the Act.
- 4.3 The Town Clerk has a general duty to ensure the provisions of the Act are followed and that Candidates and Electors are informed of their rights and obligations under the Act. However, the Town is not responsible for providing individuals with specific advice or guidance intended to ensure compliance with specific provisions of the Act. Candidates and individuals are ultimately responsible for their actions and must determine their own level of comfort when determining how to conduct themselves and their campaign and remain in compliance with Town policies and regulations, and applicable legislation.

- 4.4 If an individual believes a contravention of the Act has occurred, it is the responsibility of the individual to determine whether to prosecute in a court of law pursuant to the provisions of the Act. It is not the responsibility of the Town to prosecute any individual or organization for potential contraventions of the Act. While this Policy is administered by the Town Clerk, any complaints made, including those that are within the Town Clerk's authority to investigate or remediate, will be dealt with in accordance with procedures outlined in Appendix "A" hereto.
- 4.5 This Policy shall become effective immediately upon approval by Town Council.

5. **Policy**

- 5.1 Anyone personally affected or their representative may submit a complaint, and it will be reviewed in accordance with this procedure. Anonymous complaints will not be accepted. Any complaints to be submitted shall be submitted as soon as possible after the action or matter giving rise to the complaint that occurred. Failure to submit a complaint within a reasonable period of time may, depending on the circumstances, render a complaint no longer feasible or reviewable.
- 5.2 Complaints should be made through the Town of Tecumseh's Elections Office by filing through one of the following:
 - 5.2.1 the Town's on-line election complaint form;
 - 5.2.2 by e-mail to the Town's Election email address,
 - 5.2.3 by phone to the Town's Election phone number and extension;
 - 5.2.4 by letter addressed to the Town Clerk; or
 - 5.2.5 by using the prescribed form, if applicable.
- 5.3 Town Staff will treat all complaints as confidential and protect the Complainant's privacy according to applicable privacy legislation.
- 5.4 The Town Clerk does not have authority to investigate complaints regarding threats or intimidation allegedly made against persons who are not Town Staff.
- 5.5 Any implied or explicit threats made against the safety of a person are to be reported to the appropriate police authorities.

6. Procedure

6.1 Response Time

The following standards are to be followed in establishing the date of receipt of a complaint:

By Telephone: within two (2) business days of being received

By Email: within one (1) business day of being received

By Town's Online Form: within one (1) business day of being received

By Mail: within four (4) business days of being received

In extraordinary circumstances, the Town Clerk may not be in a position to guarantee these standards can be satisfied.

6.2 Necessary Information for Complaint

At a minimum, all complaints should provide the following information:

6.2.1 the name and contact information of the Complainant;

6.2.2 the date and nature of the complaint/action or matter giving rise to the complaint; and

6.2.3 supporting evidence or documentation to substantiate the complaint.

6.3 Contact Information for Filing a Complaint:

Town's Online Complaint Form: www.tecumsehvotes.ca

Email: vote@tecumseh.ca

Phone: (519) 735-xxxx

Mailing Address: Town Clerk Elections Office
Town of Tecumseh
917 Lesperance Road
Tecumseh, ON N8N 1W9

6.4 Step 1 – Review of Complaint

- 6.4.1 Complaints will be directed to and assessed within three (3) business days of receipt by a designated Election Official with sufficient authority to address the scope of the complaint. Depending on the nature of the complaint, the Election Official may communicate to the Complainant, within three (3) business days, the requirement for additional time to review and assess the complaint.
- 6.4.2 Regarding the complaint, the Election Official shall advise the Complainant of the following, as applicable if the complaint has merit:
- (a) an outline of the actions which will be taken by the Town with the intent of resolving the complaint;
 - (b) an estimated timeframe associated with the actions required to resolve the complaint;
 - (c) any optional or mandatory appeal mechanisms available, both internally and externally; and
 - (d) any other information deemed relevant to inform the complainant of the Town's actions.
- 6.4.3 Should the Election Official determine they do not have sufficient authority to respond to the complaint, they must refer the complaint to the Town Clerk for further review under Step 2 herein and advise the Complainant of same within three (3) business days of receipt.
- 6.4.4 Should the Election Official decide to commence an investigation of a complaint, they may supply a summary of the complaint and supporting evidence to the individual/business entity whose conduct is in question with a request for a written response to be provided. Any response or explanation provided may form part of the written response to the complainant. The Election Official will ensure the main parties involved in the complaint are given an opportunity to provide representations in an investigation.

6.4.5 If after reviewing a complaint within the authority of the Town Clerk as outlined in Appendix “A” hereto, the Election Official determines the complaint does not have merit, the Election Official shall:

- (a) contact the Complainant to advise the complaint does not have merit and will not be investigated any further; and
- (b) contact the individual whom the complaint was submitted against, advising a complaint was filed, but was determined to have no merit.

6.4.6 Within three (3) business days of being advised of the complaint being assessed by the Election Official, should the Complainant believe their complaint has not been adequately addressed pursuant to this Policy, the Complainant may refer the complaint for further review under Step 2. If the complaint is not referred for further review under Step 2, the complaint is deemed to be closed.

6.5 Step 2 – Review by the Town Clerk

6.5.1 Complaints will be directed to and assessed by the Town Clerk to address the scope of the complaint reviewed in Step 1.

6.5.2 Within three (3) business days of receipt the Town Clerk will review the assessment of the complaint in Step 1 and advise the Complainant of the outcome of the review.

6.5.3 Within three (3) business days of receipt a brief written response will be provided to the complainant outlining the Town Clerk’s assessment of the review undertaken in Step 2.

6.5.4 The Town Clerk will maintain a separate record of his/her review in accordance with the Town’s records retention policies and protocols.

6.5.5 With the decision of the Town Clerk, the complaint filed is deemed to be closed.

6.6 Potentially Frivolous or Vexatious Complaints

6.6.1 Where the complaint may be considered frivolous or vexatious or there appears to be a pattern of frivolous or vexatious complaints, Election Official may seek advice from the Town Solicitor to ensure valid complaints are heard and addressed in a professional and mutually respectful manner, while ensuring efficient use of Town resources.

6.6.2 Despite any step in this Policy, the Town Solicitor may recommend that the Election Official refer a frivolous or vexatious complaint to the Ontario Ombudsman's Office and that the Town deem the complaint file closed.

7. **Review Period**

Periodic reviews of this Policy and process may be undertaken at the discretion of the Town Clerk.

Appendix “A”

Types of Complaints and Corresponding Authorities

Matter Type	Complaint Process & Authority
Accessibility	Complaints regarding the accessibility of Election services may be submitted in the manner specified by this Policy and addressed to the Town Clerk.
Campaign Finance Offences	<p>A corporation or trade union that contravenes any of the campaign financing provisions of the Act is guilty of an offence and is liable on conviction to a fine of up to \$50,000.</p> <p>An individual that contravenes any of the campaign financing provisions of the Act is guilty of an offence and is liable on conviction to a fine of up to \$25,000.</p> <p>A candidate is guilty of an offence if he or she files an incorrect financial statement or exceeds the spending limit for the office. In addition to any other penalty that may be imposed under the Act, the candidate forfeits any office to which he or she was elected, is ineligible to be elected or appointed to any office until after the next regular Election and is liable to a fine equal to the excess spending.</p> <p>An eligible Elector may apply to the Town Clerk in the manner outlined in this Policy requesting a compliance audit of a Candidate’s campaign finances. Complaints respecting campaign finance matters for the offices of Mayor, Deputy Mayor, Councillor and Registered Third-Party advertisers with the Town are reviewed by the Town’s Compliance Audit Committee. Complaints respecting campaign finance matters for the offices of Trustee, Greater Essex County District School Board and Windsor Essex County Catholic District School Board as well as Conseil scolaire Viamonde and Conseil Scolaire Catholique Providence are addressed by the applicable school board’s compliance audit committee.</p>

Matter Type	Complaint Process & Authority
Candidate Meetings and Other Events held during the Campaign	<p>The Town Clerk performs an administrative function related to the conduct of the municipal election within the framework established by the Act. Candidate-related events organized by other institutions or organizations during the municipal campaign period, such as all-candidate debates or fundraising events, do not fall within the mandate, authority, or responsibility of the Clerk.</p>
Conduct of a Candidate or Member of Council	<p>The Town Clerk performs an administrative function related to the conduct of the municipal Election within the framework established by the <i>Municipal Elections Act</i>. While the Town Clerk can receive and assess the nature of a conduct complaint, the Act does not provide the Clerk with investigative or enforcement powers – meaning certain complaints made need to be referred to other authorities.</p> <p>Any complaints against the <i>Municipal Elections Act</i> are referred to the Minister of Municipal Affairs who has ministerial authority of the Act.</p> <p>An individual with concerns about the conduct of an individual candidate may further seek legal counsel and/or contact Ontario Provincial Police if the matter relates to an offence under the Criminal Code of Canada.</p> <p>The Town’s Integrity Commissioner plays a role in ensuring the appropriate conduct of sitting Members of Council. Additional information, including information on how and when to file a complaint under Council’s Code of Conduct is available on the Town’s website or by contacting the Town Clerk for further information.</p>
Use of Corporate Resources for Election Purposes Policy	<p>Complaints regarding the prohibition on the use of Town resources for Election purposes Policy may be submitted to the Town Clerk in the manner specified in said Policy. Please note, the nature of the complaint will dictate the response to the complaint filed.</p>

Matter Type	Complaint Process & Authority
Conduct of Voting Information Centre Staff	Complaints regarding the conduct of voting may be submitted to the Town Clerk in the manner specified by this Policy.
Offences under the <i>Municipal Elections Act</i>	<p>An individual is guilty of an offence and liable upon conviction to a fine of not more than \$25,000 if they, among other matters:</p> <ul style="list-style-type: none"> • vote without being entitled to, • vote more times than the Act allows, • induces a person to vote when that person is not entitled to do so, • publish a false statement of a candidate's withdrawal or furnishes false or misleading information to an Election Official. (See sections 88 and 89 of the Act for a complete listing of the offences.) <p>A corporation or trade union that is convicted of an offence is liable to a fine of not more than \$50,000.</p> <p>The Act prohibits corporations and trade unions from making campaign contributions to candidates.</p>
Election Results Recount	<p>The Town Clerk does not possess the authority to independently direct a recount beyond the circumstances provided for by Town Policy (if applicable) or by the Act.</p> <p>An eligible Elector may request Town of Tecumseh Council to consider a recount or make application for same to the Ontario Superior Court of Justice pursuant to the provisions of sections 56 to 58 of the Act.</p>
Controverted Election	An application may be made to the Superior Court of Justice to challenge the validity of an Election. A decision of the Superior Court of Justice may be appealed to the Divisional Court.

Matter Type	Complaint Process & Authority
Election Signs	<p>Responsibility for the enforcement of Election sign standards established by the Town rests with the Town's By-Law Enforcement in consultation with the Town Clerk. Complaints regarding non-compliant signage may be submitted to the Town Clerk in the manner specified in this Policy.</p>
Late Filing of Financial Statements	<p>All Candidates and Registered Third-Party advertisers must file a financial statement (and, in certain circumstances, an auditor's report) with the Clerk before 2:00 PM. on the last Friday in March in the year following the Election, or by the legislated deadline where a supplementary and/or subsequent financial statement is required.</p> <p>The Town Clerk does not have authority to grant an extension or set aside the requirement to file a financial statement. Additionally, the Town Clerk cannot waive any mandatory penalties that may apply due to the failure of a Candidate or Registered Third-Party to file a financial statement prior to the deadlines established by the Act.</p> <p>If a Candidate or Registered Third-Party advertiser misses the deadline, they may file within a 30-day grace period, provided a \$500.00 late filing fee is paid.</p> <p>The Candidate or Registered Third-Party advertiser may also, before the last day to file, apply to the Ontario Superior Court of Justice for an order extending the time for filing the financial statement. A judge may grant an extension for the minimum period of time necessary for the Candidate or Registered Third-Party advertiser to file the statement but may not issue an Order granting an extension of more than ninety (90) days.</p>
Voting	<p>Complaints regarding voting procedures can be made to the Town Clerk in the manner specified in this Policy.</p>