

## **Municipal Election Complaint Procedure**

### **1. Declaration**

In accordance with Sections 12(1) of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched., as amended (“MEA”), I hereby certify that the attached procedures shall be followed in administering complaints related to the conduct of the 2026 Municipal Elections in the Town of Whitby.

Notice of this Procedure was given to persons who have filed, but not withdrawn, a nomination in accordance with the MEA in accordance with Section 2.1 of the 2026 Municipal Election Procedures. Further, a copy of these Procedures have been included with the Candidate and Third Party Advertiser information packages and uploaded to the Town of Whitby election webpages at [www.whitby.ca/vote](http://www.whitby.ca/vote).

Originally signed and dated at the Town of Whitby, in the Regional Municipality of Durham, on the 22<sup>nd</sup> day of July, 2026.

Christopher Harris, Clerk and Returning Officer  
The Corporation of the Town of Whitby

### **2. Purpose**

The purpose of this Procedure is to provide the Clerk of the Town of Whitby with a framework for responding to alleged contraventions of the MEA in a consistent and sound manner.

Nothing in these Procedures shall be construed as derogating from the following authorities:

- The MEA and its Regulations
- Town of Whitby Election Sign By-law #7749-21
- Any other Acts, Regulations, or By-laws.

### **3. Authority and General Administration of these Procedures**

- a. Under subsection 11(2) of the MEA, the Clerk is responsible for preparing the election and maintaining peace and order in connection with the election. The MEA does not assign the Clerk general enforcement responsibilities.
- b. Under subsection 12(1) of the MEA, a clerk who is responsible for conducting an election may provide for any matter or procedure that is not provided in the MEA or its regulations, and that is, in the clerk's opinion, necessary for conducting the election.

- c. The Clerk is required to uphold the principles of the MEA, which the courts have established as follows:
- the secrecy and confidentiality of the individual votes is paramount;
  - the election should be fair and non-biased;
  - the election should be accessible to voters;
  - the integrity of the process should be maintained throughout the election;
  - there be certainty that the results of the election reflect the votes cast;
  - voters and candidates should be treated fairly and consistently within a municipality.
- d. Section 88.7 of the MEA provides permissive authority for a municipality to require a person to remove or discontinue an election campaign advertisement that is in contravention of the MEA. For the purposes of section 88.7, the Clerk carries out the activity on behalf of the Town.
- e. The Clerk's enforcement authority, under both section 88.7 of the MEA and these Procedures, will not involve proactive monitoring of election campaign advertisements and third party advertisements. Rather, the Clerk may review and/or take appropriate steps to deal with matters on a complaint-basis in accordance with these Procedures.
- f. In implementing these Procedures, the Clerk may consult with such other Town staff, third parties, or external legal counsel as the Clerk considers appropriate.
- g. The Clerk may delegate their enforcement authority under section 88.7 of the MEA under these Procedures in writing to another employee of the Town of Whitby or to an agent acting on their behalf, pursuant to the delegation provisions contained in section 15 of the MEA.
- h. All complaints submitted under this Procedure shall be made in writing using the complaint form prescribed by the Clerk for that purpose. The complaint form shall require the complainant's name, address, telephone number, and any other information that the Clerk considers necessary to properly assess and respond to the complaint.
- i. Anonymous complaints shall not be investigated or processed under this Procedure and the Clerk shall not be required to take any further action with respect to such complaints.

#### **4. Procedure for Responding to Complaints**

- a. Upon receiving a complaint regarding the municipal election, the Clerk will review and classify the complaint as being about one or more of the following categories, based on the true substance of the issue, in the Clerk's sole opinion:
  - Complaints about Town Election Services
  - Complaints about the improper Use of Town Resources for election purposes
  - Complaints about Campaign Activity
  - Complaints about Candidate or Registered Third Party Election Signs
  - Complaints about Election Advertising
- b. The Clerk may, but is under no obligation, to seek additional background information from a complainant to understand a complaint.
- c. The Clerk shall be under no obligation to deal with a complaint which, in the opinion of the Clerk, is frivolous or vexatious, or made in bad faith or for a purely political purpose.
- d. The Clerk will endeavour to notify the complainant of receipt of the complaint and that it shall be reviewed in accordance with these Procedures within three (3) business days, which timeline shall not be binding on the Clerk.

#### **5. Complaints about Town Election Services**

- a. Complaints relating to the administration of the election by the Town, including the conduct of election officials, voting opportunities, election accessibility, election procedures, election equipment, notices, forms, or any matter for which the Clerk is responsible under the MEA, shall be reviewed by the Clerk.
- b. In reviewing the complaint, the Clerk shall consider whether the Town has complied with the requirements of the MEA, the 2026 Municipal Election Procedures, and any other applicable legislation, policies, procedures, or standards governing the administration of the election.
- c. Where the Clerk determines that the complaint is substantiated, valid, or identifies an opportunity to improve election administration, the Clerk may take any action the Clerk considers appropriate in the circumstances to ensure the proper conduct of the election and compliance with the MEA.
- d. The Clerk will endeavour to provide a response to the complainant outlining the outcome of the review and any actions taken or proposed in response to the

complaint, subject to privacy, legal, operational, or other considerations that may limit the information that can be disclosed.

## **6. Complaints about improper Use of Town Resources for election purposes**

- a. Complaints alleging the improper use of Town resources for election purposes shall be reviewed by the Clerk in accordance with the Town's Use of Corporate Resources for Election Purposes Policy G 070.
- b. In reviewing the complaint, the Clerk shall consider whether the conduct described appears to constitute a use of Corporate Resources contrary to Policy G 070.
- c. Where the Clerk determines that a complaint lacks sufficient merit, evidence, or jurisdictional basis, the Clerk may decide that no further action is warranted.
- d. Where the Clerk is satisfied that a complaint is valid, substantiated, or raises a reasonable concern regarding compliance with Policy G 070, the matter shall be reviewed with the Chief Administrative Officer and the Town Solicitor, or their designates, to determine the appropriate response on behalf of the Town.
- e. Following such review, the Town may take any action considered appropriate in the circumstances, including providing direction or education to the individual involved, requiring corrective action, discontinuing an activity, or taking any other administrative, legal, or operational action the Town deems necessary, in its sole and absolute discretion, to protect the integrity of the election and ensure compliance with applicable legislation and Town policies.
- f. The Town shall not be under any obligation to notify the complainant of the outcome of a complaint, but may do so when it is practicable for the CAO, Town Solicitor, and/or Clerk to do so.

## **7. Complaints about Campaign Activity**

- a. Where a complaint relates to the campaign activity of a candidate or registered third party advertiser, including issues relating to campaign finance, the Clerk shall not be required to take any action, but may advise the complainant about the compliance audit process set out in the MEA.

## **8. Complaints about Candidate or Registered Third Party Election Signs**

- a. Complaints relating to the placement of election campaign signs shall be referred to the Legal and Enforcement Services Department for investigation and appropriate enforcement action in accordance with Town of Whitby Election Sign By-law #7749-21.

## **9. Complaints about Election Advertising**

Where a complaint alleges a contravention of sections 88.3, 88.4, or 88.5 of the MEA, the Clerk will deal with the complaint as follows:

- a. The Clerk may seek to collect information pertaining to the complaint, including but not limited to photographs, audio or video recordings, screenshot, or witness accounts, to better understand the issue.
- b. If, upon completing a review, the Clerk is satisfied that there has been no contravention of sections 88.3, 88.4 or 88.5 of the MEA, or if the Clerk is unable to substantiate the complaint, the Clerk may decide not to pursue the matter. The Clerk may, if considered advisable, provide the subject of the complaint or any other person correspondence educating about any applicable rules.
- c. If, upon completing an initial review, the Clerk is satisfied that there may be a contravention of sections 88.3, 88.4 or 88.5 of the MEA, the Clerk shall review the matter with the Town Solicitor and/or external legal counsel. Following such review, where the Clerk is satisfied that there are reasonable grounds to believe that a contravention has occurred, the Clerk may require a person who the Clerk believes contravened the MEA or caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to remove the advertisement or discontinue the advertising. The Clerk may, in consultation with legal counsel, take any measures the Clerk considers appropriate, including:
  - i. issuing a legal notice to remove or discontinue the advertisement;
  - ii. authorize an employee or agent of the Town to remove an advertisement on public property without notice;
  - iii. authorize an employee or agent of the Town to remove an advertisement on private property with or without notice; or
  - iv. any other measure that the Clerk considers necessary for conducting the election and maintaining the integrity of the election.
- d. Where the measures referred to above are not practicable or warranted, noting the circumstances and medium of the advertisement, the Clerk may also take any of the following additional measures:
  - i. issuing correspondence to the person who the Clerk reasonably believes contravened the MEA about the matter;
  - ii. referring the matter to the appropriate police force for investigation and enforcement; or

- iii. any other measure that the Clerk considers necessary for conducting the election and maintaining the integrity of the election.
- e. The Clerk shall not be under any obligation to notify the complainant of the outcome of a complaint, but may do so when it is practicable for the Clerk to do so.
- f. Regardless of the action taken, the Clerk shall document their determination and findings on the complaint, any steps taken to address the same under these Procedures, and the rationale for taking such action, for internal record-keeping purposes.