



Report to Council

Department: Office of the CAO

Division: Legal and Legislative Services

Date: September 8, 2020

Prepared by: Robert W Auger, Town Solicitor/Clerk

Report Number: Legal & Legislative Services Report 2020-014

Subject: Town of Essex Election Complaints Policy attached hereto as Schedule "A" to this report

Number of Pages: 3

Recommendation(s)

That Legal & Legislative Services Report 2020-014 entitled Town of Essex Election Complaints Policy attached hereto as Schedule "A" to this report as prepared by Robert W Auger, Town Solicitor/Clerk and dated September 8, 2020 be received, and

That the Town of Essex Election Complaints Policy attached hereto as Schedule "A" to this report be adopted as presented.

Purpose

To create a framework of responsibilities for a consistent approach for resolving election-related complaints directed at the Town by members of the public, candidates, registered third party advertisers and electors.

Background and Discussion

During the 2018 municipal election, complaints about election related matters (candidate signs, candidate use of resources etc.) were received on an ad-hoc basis by the Clerk's office. In the process of trying to acknowledge and resolve election complaints during the 2018 election what became apparent was that there were misperceptions as to what types of complaints fell within the jurisdiction of the Clerk and which complaints were matters outside the scope of the Clerk's jurisdiction. While the Clerk's office and elections staff made good faith effort to acknowledge and promptly resolve election related complaints it was felt coming out of the 2018 election, that better and more effective communication would be required as to the process for acknowledging, reviewing and responding to complaints related to the Election. The improved communication would be with respect to both how to direct/file complaints and who has responsibility to receive and resolve any such complaints.

Therefore it was proposed at the July 20, 2020 Council Meeting (Legal & legislative Services Report 2020-011) that a formal Election Complaints Policy be established to communicate and guide candidates and members of the public alike when it comes to any concerns about services/processes during a municipal election. Attached hereto as Schedule "A" to this Report is the proposed Town of Essex Election Complaints Policy. This Policy will provide direction and information on the complaint and review process for various aspects of the election as well as the basis of authority to address such complaints.

Specifically as it relates to the conduct of candidates during an election, a key point to note from the proposed policy is that the Clerk performs largely an administrative and procedural function related to the conduct of the municipal election but within the framework established by the Municipal Elections Act ("MEA"). While Section 12 of the MEA gives the Clerk a wide range of powers to provide for any matter necessary *for conducting the election*, the Act specifically does not provide the Clerk with investigative or enforcement powers specifically as it relates to allegations that the MEA or other applicable legislation was violated. Concerns

that a candidate or other person may have violated either the MEA and/or any other legislation (i.e. Criminal Code etc.) should be addressed by contacting:

- Independent legal counsel for further advice if necessary; and/or
- the Ministry of Municipal Affairs which has ministerial responsibility for the MEA; and/or
- the Ontario Provincial Police.

The Policy proposed in Schedule “A” to this Report would continue to be reviewed from time to time on an as needed basis including after each Municipal election.

Financial Impact

None

Consultations

Link to Strategic Priorities

- ☐ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☐ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☐ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☒ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.
- ☐ Improve the Town's capacity to meet the ongoing and future service needs of its citizens while ensuring the corporation is resilient in the face of unanticipated changes or disruptions.

Report Approval Details

Document Title:	Town of Essex Election Complaints Policy.docx
Attachments:	- Town of Essex Election Complaints Policy 039.docx
Final Approval Date:	Sep 1, 2020

This report and all of its attachments were approved and signed as outlined below:

No Signature - Task assigned to Chris Nepszy, Chief Administrative Officer was completed by delegate Doug Sweet, Director, Community Services/Deputy CAO

Chris Nepszy, Chief Administrative Officer - Sep 1, 2020 - 5:03 PM