

Appendix A -- Matters Outside the Scope of the City Clerk's Office Complaints Procedure

- For certain services and processes, there exists legislated processes for complaints and appeals that are outside the City Clerk's Office jurisdiction.
- This Appendix lists matters outside the scope of the City Clerk's Office Complaints Procedure. The applicable complaint and review process is indicated where one exists.
- It should be noted that this outline is illustrative and may not include the full list of complaints processes outside the scope of the City Clerk's Office procedure.

SUBJECT	COMPLAINT AND REVIEW PROCESS	AUTHORITY
CITY COUNCIL		
Conduct of Members of City Council	<p>The Integrity Commissioner investigates complaints about conduct of Members of City Council or members of local boards (restricted definition).</p> <p>Formal and Informal Complaint Protocols: http://www.toronto.ca/integrity/complaints-procedure.htm</p>	<p>Link: City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A</p> <p>Sections 158-164</p> <p>See also Members' Code of Conduct</p>
Complaints about City Council office staff	<p>The Code of Conduct for Members of Council applies to all Council Members' staff. It is the responsibility of the Integrity Commissioner to conduct inquiries as to whether a member of Council or his or her staff has contravened Members' Code of Conduct and other by-laws, policies and protocols regulating the conduct of staff of members of Council.</p> <p>Complaints received by the City Clerk's Office about a Council member's office staff are first referred to the particular member of Council. If the complainant advises the City Clerk's Office that he/she is not satisfied with the response by the member of Council about a complaint regarding the member's staff, they may be referred to the Integrity Commissioner.</p>	See Members' Code of Conduct

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	<p>Note: An inter-divisional working group, which includes the Integrity Commissioner and staff of the City Clerk's Office, Legal Services and Human Resources, is examining a number of matters relating to Councillors and their staff, including employment status and applicable policy.</p>	
Closed Meetings	<p>Where an individual believes that a meeting of City Council, a local board, or a committee has been improperly closed, the complainant may request that the City review the circumstances by appointing an independent investigator.</p> <p>Closed meeting investigation requests are received by the City Clerk's Office and forwarded to to an independent investigator. The request must involve a body covered by the investigations provision of the City of Toronto Act, 2006.</p> <p>The investigator will evaluate requests and may conduct an investigation in accordance with legislation and applicable procedures.</p> <p>Closed Meeting Investigation Procedures: http://www.toronto.ca/committees/open-closed-meetings/request-investigation.htm#processed</p>	<p>Link: City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A section 190 (and 190.1 and 190.2)</p> <p>Link: See sections 27-37 and 27-38 of the Procedures By-law for closed meeting rules</p> <p>Where applicable, see local board procedures.</p>
Lobbying	<p>A request for an investigation or inquiry about compliance with the registry system or Lobbyists' Code of Conduct may be made by City Council, a member of Council or a member of the public, including the Registrar.</p> <p>The Registrar may initiate an investigation or inquiry based upon information received from a member of the public, a member of Council or information contained in the lobbyist registry.</p> <p>Link to Municipal Code:</p>	<p>Link: City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A sections 165 to 169</p> <p>Municipal Code Chapter 140, Article VI Lobbyists' Code of</p>

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	http://www.toronto.ca/legdocs/municode/1184_140.pdf Compliance Investigation Procedures: http://www.toronto.ca/legdocs/mmis/2009/cc/bgrd/backgroundfile-18482.pdf#appendix-2	Conduct
SPECIALIZED APPEAL PROCESSES FOR LEGISLATIVE DECISIONS		
Committee Recommendation to Council	The process for a person who wishes to dispute the recommendations of a committee or local board to City Council is to write to City Council on the agenda item. The City Clerk will place the information before City Council before City Council considers the item.	
Decisions of City Council or its Committees	The legislative decisions of City Council are not reviewable by the City Clerk or any other City Official and generally, must be resolved by a court or tribunal with statutory authority.	
Planning decisions	The Planning Act governs land use planning and development in the Province of Ontario. The Ontario Municipal Board may hear appeals based on the decisions (or failure to make a decision on a complete application) of local authorities. The Act sets out who is eligible to make an appeal to the Board, and the procedures that must be followed to do so.	Links: The Ontario Municipal Board Act and The Planning Act
Heritage decisions	Certain decisions made by Council under the Ontario Heritage Act may be appealed to the Conservation Review Board or Ontario Municipal Board, as appropriate.	Links: The Ontario Municipal Board Act and The Ontario Heritage Act
Expropriation	The Expropriations Act provides for a means for those expropriated to receive fair compensation when their lands are expropriated or affected by nearby expropriation. It also sets out	Links: The Ontario Municipal Board Act and The

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	the authority and process that must be followed in order to expropriate. Certain decisions by City Council under the Act may be appealed to Ontario Municipal Board.	Expropriations Act
Development Charges	The Development Charges Act grants municipalities the right to impose charges on developers to pay for new services and infrastructure needed for growth. Certain decisions by City Council under the Act may be appealed to Ontario Municipal Board.	Links: The Ontario Municipal Board Act and The Development Charges Act
Ontario Municipal Board - Appeal mechanisms under other statutes	Several other public and private statutes give specific jurisdiction and authority to the Ontario Municipal Board. See: http://www.omb.gov.on.ca/english/OMBInformation/OMB_Legislation.html	
GAMING SERVICES		
Bingo Hall Operators, Break Open Ticket Seller Locations i.e. Retailers	Eligible organizations must obtain a lottery licence from the City of Toronto before conducting a bingo event, raffle event, bazaar or for the sale of break open tickets (BOT). The Gaming Control Act, 1992 regulates the commercial sector of the charitable gaming industry. It also regulates the registration of individuals, corporations, organizations, associations and partnerships that supply gaming services or goods to licensed charitable organizations. BOT retailers and bingo halls are licensed by the Alcohol and Gaming Commission of Ontario (AGCO). Any persons with complaints or concerns about those operations are directed by the City Clerk's Office to the AGCO.	Links: Gaming Control Act, 1992

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REGISTRY SERVICES		
Liquor licence	<p>The City Clerk's Office coordinates municipal clearance for liquor licences (receives and circulates applications). The Registrar of Alcohol and Gaming shall request from the residents of the municipality written submissions as to whether the issuance of the licence is in the public interest having regard to the needs and wishes of the residents. Members of the public wishing to object to a liquor licence application must provide written notification to the Alcohol and Gaming Commission of Ontario. Complaints about existing licensed establishments are also referred to the AGCO.</p> <p>http://www.agco.on.ca/pdf/Non-Forms/3194E.pdf</p>	<p>Link: Liquor Licence Act, R.S.O. 1990, c. L.19</p> <p>Link: City By-law 2000-0260</p>
Polling	<p>The City Clerk's Office is responsible for conducting polls on behalf of other City Divisions. This ensures harmonization of polling procedures for consistency in the polling process. The City Clerk's Office remains neutral having no vested interest in poll results.</p> <p>Concerns regarding the subject of the polls application processes required for these initiatives are the responsibility of the appropriate City division.</p> <p>Link to Municipal Code: http://www.toronto.ca/legdocs/municode/1184_190.pdf</p>	Toronto Municipal Code, Chapter 190 Polling and Notification
Assessment	<p>The Assessment Act requires the City Clerk to provide access to assessment rolls. However, disputes with the current value assessment for a property are referred to the Municipal Property Assessment Corporation (MPAC). Persons can file a Request for Reconsideration or if they do not agree with the assessor, they can formally file a Notice of Complaint appeal with the Assessment Review Board.</p> <p>See:</p>	<p>Link: Assessment Act, R.S.O. 1990, c. A.31</p>

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	Municipal Property Assessment Corporation Web site	
Fences	<p>The Line Fences Act is Provincial legislation administered by the City. The City has an impartial arbitration process authorized by the Line Fences Act to help resolve line fence disputes. A Fence-Viewer is an impartial third party appointed by the City to resolve line fence disputes. Three Fence-Viewers visit the site and discuss the situation individually with the owners involved. As of April 2009, the Municipal Licensing & Standards Division now receives notice, sets meetings for viewing and notifies owners of Fence-Viewers' decisions.</p> <p>See: http://www.toronto.ca/registry-services/line-fences.htm</p>	<p>Link: Line Fences Act, R.S.O. 1990, c. L.17</p>
INFORMATION ACCESS AND PRIVACY		
Privacy Complaint	<p>A privacy complaint relating to the collection, use and/or disclosure of personal information by any City division may be made to the Corporate Access and Privacy Unit, which will investigate and respond to the complainant.</p> <p>The option also exists to make a privacy complaint to the Information and Privacy Commissioner/Ontario, which assigns a compliance investigator to review the facts of the complaint, determine if the City has complied with the privacy provisions of the Act, and make recommendations for improved privacy practices.</p> <p><u>Note:</u> The City Clerk's Office does not have jurisdiction to investigate privacy complaints about City Councillors. These complaints may be made to the Information and Privacy Commissioner/Ontario or the City of Toronto Integrity</p>	<p>Link: Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56 Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Sched. A</p>

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	Commissioner.	
Decisions on FOI requests	The City has 30 calendar days from date of receipt to respond to access requests. If the person has not received a decision letter and 30 days have passed, they can appeal this to the Information and Privacy Commissioner of Ontario. Persons not satisfied with an access decision made by the City can appeal the decision within 30 days to the Information and Privacy Commissioner of Ontario.	Link: Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56 Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Sched. A
MUNICIPAL ELECTIONS		
Municipal Questions on the Ballot	The Minister of Municipal Affairs & Housing, or any other person or entity may appeal to the Chief Electoral Officer (CEO) 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. The CEO shall hold a hearing within 60 days and dismiss the appeal or allow the appeal in whole or in part.	Link: Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched. (section 8.1)
Election Results	An eligible elector may apply to the Superior Court of Justice to challenge the validity of an election. The order of this Court may be appealed to Divisional Court.	Link: Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched. (sections 83 to 87)
Recounts	Council may pass a resolution requiring the Clerk to conduct a recount.	Link:

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	<p>An eligible elector may apply to the Superior Court of Justice for an order directing the Clerk to conduct a recount. If the judge is of the opinion that the vote-counting equipment caused or contributed to the doubtful result, he or she may order that the recount shall be conducted in a different manner than the original count on election night, e.g. a manual hand count. If the ballots are manually counted, a party to the recount may appeal to the Superior Court of Justice for a recount limited to the disputed ballots. There is no appeal from the judge's decision on the disputed ballots.</p>	<p>Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched.</p> <p>(sections 57 to 64)</p>
<p>Late Filing of Financial Statements</p>	<p>All nominated candidates must file a financial statement (and auditor's report in certain circumstances) with the City Clerk by 2 p.m. on the last Friday in March in the year following the election. The candidate may, <u>before</u> the last day for filing, apply to the Ontario Court of Justice for an order extending the time for filing the financial statement. The judge may grant an extension for the minimum period of time necessary for the candidate to file the statement but the court shall not grant an extension of more than 90 days.</p>	<p>Link:</p> <p>Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched.</p> <p>(section 80)</p>
<p>Election Campaign Financing</p>	<p>An eligible elector may apply to the City Clerk for a compliance audit of a candidate's campaign finances. The City Clerk shall forward the application to the City's Compliance Audit Committee. The Committee shall consider the application and make a decision within 30 days whether to accept or reject the application. The decision of the Committee to grant or reject an application for a compliance audit may be appealed to the Ontario 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 Act.</p> <p>A person may also lay an information under the <i>Provincial</i></p>	<p>Link:</p> <p>Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched.</p> <p>(sections 81 and 81.1)</p>

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	<i>Offences Act</i> or take any other legal action at any time with respect to an alleged contravention of the Act relating to election campaign finances.	
Election Signs	<p>Responsibility for enforcing the election sign provisions of the Toronto Municipal Code rests with Municipal Licensing and Standards Division.</p> <p>Link to Municipal Code: http://www.toronto.ca/legdocs/municode/1184_693.pdf</p>	<p>Link:</p> <p>Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched.</p> <p>Section 8</p> <p>Chapter 693 of Toronto Municipal Code</p>
Offences	<p>An individual is guilty of an offence and liable upon conviction to a fine of not more than \$25,000 if he or she, among other matters, votes without being entitled to, votes more times than the Act allows, induces a person to vote when that person is not entitled to do so, publishes a false statement of a candidate's withdrawal or furnishes false or misleading information to an election official. (See section 89 for a complete listing of the offences.)</p> <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>Toronto Council has passed a by-law prohibiting corporations and trade unions from making campaign contributions. A corporation or trade union that is convicted of an offence under this by-law is liable to a fine of not more than \$50,000.</p>	<p>Link:</p> <p>Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched. (sections 89 and 94)</p> <p>City By-law 1177-2009</p>
Corrupt Practices	If a judge convicts a person of an offence under section 89, and finds that the person committed the offence knowingly, the offence also constitutes a corrupt practice and the person is also liable to a term of imprisonment of not more than six months.	<p>Link:</p> <p>Municipal Elections Act, 1996, S.O. 1996, c.</p>

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	<p>A person convicted of bribery (in connection with the exercise or non-exercise of an elector's vote or to induce a person to become a candidate or withdraw his or her candidacy) is also guilty of a corrupt practice and is liable on conviction to a fine of up to \$25,000, a term of imprisonment of up to six months and is disqualified from voting until the next regular election has taken place.</p> <p>The City Clerk or an election official is guilty of a corrupt practice if he or she wilfully fails to perform a duty imposed by the Act and is liable upon conviction to a fine of up to \$25,000 and a term of imprisonment of up to six months.</p> <p>If a candidate is convicted of a corrupt practice under the Act or of an offence under the <i>Criminal Code (Canada)</i> in connection with an act or omission relating to an election, any office to which he or she was elected is forfeited and he or she is ineligible to be nominated for or elected or appointed to any office until the next two regular elections have taken place.</p>	<p>32, Sched.</p> <p>(sections 90 and 94)</p>
<p>Campaign Finance Offences</p>	<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</p>	<p>Link:</p> <p>Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched.</p> <p>(section 92)</p>

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	after the next regular election and is liable to a fine equal to the excess spending.	
Conduct of Candidates and Other Individuals	<p>The City Clerk has no investigative or enforcement powers with respect to the conduct of candidates or other individuals for any campaign related activity. However, the City Clerk may decide in extraordinary circumstances, as was the case in Ward 8 during the 2006 election, to speak to the candidate(s) and take any administrative actions deemed necessary to ensure the integrity of the election.</p> <p>The complaint mechanism in the Act requires an individual to swear an information under the Provincial Offences Act for a hearing by an Ontario Court of Justice judge. (Note: This is a long and cumbersome process, and when advised of the process, most complainants abandon their complaint.)</p> <p>Candidates and other individuals are subject to the laws of the Province of Ontario and Canada – e.g. libel, slander, theft, and assault. In these situations, the complainant would be advised to contact the police.</p> <p>If the candidate is a Member of Council and the alleged conduct is a matter to which the Code of Conduct applies, e.g. use of corporate resources for their campaign, the complainant would be advised to contact the Integrity Commissioner. Other than this scenario, the Integrity Commissioner does not have the authority to review allegations that candidates have violated provisions of the Act.</p>	
Complaints against the Municipal Elections Act, 1996 provisions	The City Clerk performs a statutory role in the conduct of an election and must follow the provisions of the Act. Any complaints against the provisions of the Act are referred to the Minister of Municipal Affairs and Housing who has ministerial responsibility for the Act.	Link: Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched.

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Complaints about candidates meetings and events held during the election	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 Toronto municipal elections, such as all-candidates debates, do not fall within the mandate, authority or responsibility of the City Clerk's Office.	
	OTHER	
Discrimination and harassment	<p>Several options to resolve harassment and discrimination concerns are available for employees. An informal approach can foster prompt resolution, without a formal investigation including staff attempting to resolve matters themselves before filing a complaint or raising harassment concerns to their superior. The Human Rights Office will only accept complaints of personal (non-Code) harassment once other resolution options have been exhausted or are not appropriate.</p> <p>All formal complaints will be referred to the Human Rights Office for mediation and/or investigation and the City's Human Rights and Anti-Harassment complaint procedures will apply.</p>	<p>Link: Human Rights and Anti-Harassment - Complaint Procedures</p>
Fraud Auditor General	<p>The Auditor General is responsible for assisting City Council in holding itself and City administration accountable for the quality of stewardship over public funds and for the achievement of value for money in City operations.</p> <p>The City's Fraud Prevention policy specifies that any employee who has knowledge of an occurrence of irregular conduct, or has reason to suspect that a fraud has occurred, shall immediately notify his/her supervisor. If the employee has reason to believe that the employee's supervisor may be involved, the employee</p>	<p>Link: City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A –Section 177-182</p> <p>City of Toronto Municipal Code - Chapter 169 - Officials, Article VI – Auditor</p>

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	<p>shall immediately notify the Auditor General.</p> <p>Section 7 of the City's Fraud Prevention Policy specifies that where it is suspected that fraud may have been committed by a member of City Council, the Mayor, the City Manager, the City Clerk or the City Solicitor, the Auditor General will conduct an initial review and report the results to the Chair of the Audit Committee.</p> <p>The Fraud & Waste Hotline is operated by the Auditor General's for City employees, the general public and anyone doing business with the City to report suspected wrongdoing involving municipal resources, waste or contracts.</p> <p>City employees, the general public and anyone doing business with the City can report suspected wrongdoing involving municipal resources, waste or contracts through the Fraud & Waste Hotline or directly to the Auditor General's Office.</p> <p>Link to Municipal Code: http://www.toronto.ca/legdocs/municode/1184_169.pdf</p>	<p>General</p> <p>See: Fraud Prevention Policy</p> <p>and Fraud & Waste Hotline</p>
<p>Providing Services to People with Disabilities</p>	<p>Feedback process</p> <p>The goal of the City Clerk's Office is to meet and surpass expectations while serving people with disabilities. Comments on our services regarding how well those expectations are being met are welcome and appreciated.</p> <p>Feedback regarding the way the City Clerk's Office provides services to people with disabilities can be made by e-mail, verbally, and in writing. All written feedback will be directed to the City Clerk:</p>	<p>This process is in accordance with the Accessibility for Ontarians with Disabilities Act, 2005.</p> <p>See: http://www.toronto.ca/city_clerk/disabilities.htm</p>

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	<p>Email: clerk@toronto.ca Phone: 416-392-8011 Fax: 416-392-2980 Address: City Clerk City Hall 13th floor, West Tower 100 Queen Street West Toronto, Ontario M5H 2N2</p> <p>Once received, the feedback is redirected to the appropriate director/manager/supervisor. In person feedback should be provided directly to the applicable manager/supervisor. We will acknowledge receipt of phone and email feedback within one business day (24 hours). An acknowledgement will be sent to fax and mailed feedback within 4 business days of receipt.</p>	